

JANICE MCCOY

MAY 16, 2012

<p style="text-align: center;">1</p> <p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA</p> <p>STATE OF TEXAS,) Plaintiff,) VS.) ERIC M. HOLDER, JR. in his) official capacity as Attorney) General of the United States,) Defendant,) ERIC KENNIE, et al,) Defendant-Intervenors,) TEXAS STATE CONFERENCE OF) NAACP BRANCHES,) Defendant-Intervenors,) TEXAS LEAGUE OF YOUNG VOTERS) EDUCATION FUND, et al,) Defendant-Intervenors,) TEXAS LEGISLATIVE BLACK) CAUCUS, et al,) Defendant-Intervenors,) VICTORIA RODRIGUEZ, et al.,) Defendant-Intervenors.)</p> <p style="text-align: center;">***** ORAL DEPOSITION OF JANICE MCCOY MAY 16, 2012 *****</p> <p style="text-align: center;">2</p> <p>1 ORAL DEPOSITION OF JANICE MCCOY, produced as a 2 witness at the instance of the Defendant, was duly 3 sworn, was taken in the above-styled and numbered cause 4 on the MAY 16, 2012, from 9:39 a.m. to 6:24 p.m., before 5 Chris Carpenter, CSR, in and for the State of Texas, 6 reported by machine shorthand, at the offices of The 7 United States Attorney's Office, 816 Congress Avenue, 8 Suite 1000, Austin, Texas 78701, pursuant to the Federal 9 Rules of Civil Procedure and the provisions stated on 10 the record or attached hereto. 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: center;">3</p> <p>1 2 3 APPEARANCES 4 FOR THE PLAINTIFF, STATE OF TEXAS 5 Matthew Frederick 6 Patrick K. Sweeten 7 OFFICE OF THE ATTORNEY GENERAL OF TEXAS 8 P.O. Box 12548 9 Austin, TX 78711-2548 10 209 West 14th Street 11 8th Floor 12 Austin, TX 78701 13 (512) 936-1307 14 matthew.frederick@texasattorneygeneral.gov 15 16 FOR THE DEFENDANT, HOLDER, ET AL: 17 Jennifer Maranzano 18 Elizabeth S. Westfall 19 U.S. DEPARTMENT OF JUSTICE 20 950 Pennsylvania Avenue, NW 21 NWB - Room 7202 22 Washington, DC 20530 23 (202) 305-7766 24 jennifer.maranzano@usdoj.gov 25 elizabeth.westfall@usdoj.gov FOR THE DEFENDANT-INTERVENOR TEXAS STATE CONFERENCE OF NAACP BRANCHES AND THE MEXICAN AMERICAN LEGISLATIVE CAUCUS: Ezra D. Rosenberg DECHERT, LLP Suite 500 902 Carnegie Center Princeton, NJ 08540-6531 (609) 955-3200 ezra.rosenberg@dechert.com</p> <p style="text-align: center;">4</p> <p>1 FOR THE KENNIE INTERVENORS: 2 Chad W. Dunn 3 BRAZIL & DUNN, LLP 4 4201 Cypress Creek Parkway 5 Suite 530 6 Houston, TX 77068 7 (281) 580-6310 8 chad@brazilanddunn.com 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
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10	28 HB No. 218, Filed 2007 41	10	representing the Defendant, Eric Holder, in this matter.
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12	30 Notice of Deposition 14	12	the record?
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14	32 Senate Rules Adopted by the 81st Legislature, Jan. 14, 2009 119	14	MS. MARANZANO: And can we have everybody
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17	36 SB No. 363 139	17	Dechert LLP on behalf of the Texas State Conference of
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20	39 Transcript, Jan. 25, 2011, Committee of the Whole Senate 204	20	Kennie Intervenors.
21	40 Transcript, Jan. 26, 2011, Committee of the Whole Senate 206	21	MR. ROSENBERG: And let me see if we're
22	41 Transcript Excerpt Senate Bill 14, Jan. 26, 2011 208	22	having a telephone guest today.
23		23	MR. FREDERICK: Matthew Frederick for the
24		24	State of Texas.
25		25	MS. MARANZANO: Let's just continue while
6		8	
1	42 Transcript Excerpt: Senate Bill 14, Jan. 26, 2011, CD 1, Section II 213	1	they are doing that.
2		2	Q. (By Ms. Maranzano) Ms. McCoy, have you ever
3		3	been known by any other names?
4		4	A. My maiden name is Janice Steffes.
5		5	Q. Have you ever been deposed before?
6		6	A. No.
7		7	Q. Let me go over some ground rules with you. You
8		8	have been placed under oath today, so it's important to
9		9	testify truthfully, accurately, and completely.
10		10	The court reporter is taking down a
11		11	transcript of everything that we say, and so it's
12		12	important to answer my questions verbally, not with
13		13	shaking your head or nodding. It's important for you to
14		14	wait until I finish a question before you answer. We
15		15	shouldn't talk over each other, and that way, the record
16		16	will be clear. If you wish to stop and take a break at
17		17	any point, go ahead and let me know, and I will do my
18		18	best to accommodate you.
19		19	From time to time, your attorney may make
20		20	an objection to a question that I ask. He is doing this
21		21	for the record, and unless he instructs you not to
22		22	answer, you can go ahead and answer my question. If he
23		23	counsels you to answer only to the extent that
24		24	information is not privileged, I'd ask you to clarify
25		25	whether you're not answering based on that ground, so

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<p style="text-align: center;">9</p> <p>1 that we have a clear record.</p> <p>2 Do you have any questions based on these</p> <p>3 instructions?</p> <p>4 A. I do not.</p> <p>5 Q. Are you on any medication today that would</p> <p>6 affect your ability to testify?</p> <p>7 A. No.</p> <p>8 Q. Is there any other reason why you can't testify</p> <p>9 truthfully, accurately, and completely today?</p> <p>10 A. No.</p> <p>11 Q. I may use some shorthand today. If I say "the</p> <p>12 Senator," I'm referring to Senator Fraser or anyone who</p> <p>13 is acting on his behalf. Do you understand that?</p> <p>14 A. Yes.</p> <p>15 Q. I may use the terms "voter ID" and "photo ID"</p> <p>16 interchangeably during this deposition. I'd like you to</p> <p>17 interpret those words broadly to include any photo</p> <p>18 identification -- I'm sorry -- any voter identification</p> <p>19 requirement, whether it had a photo or not, that a voter</p> <p>20 needs to present in order to vote in person.</p> <p>21 A. Okay.</p> <p>22 Q. If I use the term "minority voters," I'm</p> <p>23 referring to voters who are not white, nonAnglo.</p> <p>24 A. Okay.</p> <p>25 Q. Do you understand all those terms?</p>	<p style="text-align: center;">11</p> <p>1 Q. What did you do to prepare for today's</p> <p>2 deposition?</p> <p>3 A. I reviewed the bill, and I looked at some</p> <p>4 minutes of the Committee of the Whole and the Floor</p> <p>5 debate.</p> <p>6 Q. And when you say "the bill," can you tell me</p> <p>7 what bill you're referring to?</p> <p>8 A. The enrolled version of Senate Bill 14.</p> <p>9 Q. And minutes of the Committee of the Whole</p> <p>10 debate was for Senate Bill 14?</p> <p>11 A. Senate Bill 14, yes, ma'am.</p> <p>12 Q. Okay. Did you review anything else?</p> <p>13 A. No, ma'am.</p> <p>14 Q. Did you meet with your attorneys prior to this</p> <p>15 deposition?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. And who did you meet with?</p> <p>18 A. I met with Matt Frederick and Stacey Napier.</p> <p>19 Q. And when was that?</p> <p>20 A. I met with Matt and Stacey three or four weeks</p> <p>21 ago. I don't know the exact date. And I talked with</p> <p>22 Matt on the phone last evening.</p> <p>23 Q. How long did you meet with Mr. Frederick and</p> <p>24 Ms. Napier three to four weeks ago?</p> <p>25 A. Hour, hour and a half.</p>
<p style="text-align: center;">10</p> <p>1 A. Yes.</p> <p>2 Q. If I ask any questions today that you do not</p> <p>3 understand, please let me know.</p> <p>4 A. I will.</p> <p>5 Q. Are you represented by counsel today?</p> <p>6 A. I am.</p> <p>7 Q. And who is that?</p> <p>8 A. Matthew Frederick.</p> <p>9 Q. And when did that representation begin?</p> <p>10 A. I think when I started working for the</p> <p>11 state. I mean, in terms of this case?</p> <p>12 Q. In terms of -- you're being represented by</p> <p>13 Mr. Frederick today in this deposition?</p> <p>14 A. Yes.</p> <p>15 Q. And when did that representation start, to the</p> <p>16 best of your knowledge?</p> <p>17 A. When the case was brought before the court.</p> <p>18 Q. How did you come to be informed that you were</p> <p>19 being represented by Mr. Frederick?</p> <p>20 A. The Attorney General's Office called me.</p> <p>21 Q. Have you ever been a party in litigation?</p> <p>22 A. No.</p> <p>23 Q. Have you ever been involved in a case in which</p> <p>24 Texas was the -- was a party?</p> <p>25 A. No.</p>	<p style="text-align: center;">12</p> <p>1 Q. And was anybody else present?</p> <p>2 A. No, ma'am.</p> <p>3 Q. And how long did you talk to Mr. Frederick last</p> <p>4 night?</p> <p>5 A. About an hour.</p> <p>6 Q. Did you bring any documents with you today?</p> <p>7 A. No, ma'am.</p> <p>8 Q. Other than your attorneys, did you speak to</p> <p>9 anybody about today's deposition?</p> <p>10 A. I talked to Colby on Tuesday afternoon about</p> <p>11 the length of his deposition.</p> <p>12 Q. Did you talk to -- and I'm sorry, you're</p> <p>13 referring to Colby Beuck?</p> <p>14 A. Is that how you say his last name? Yes. From</p> <p>15 Representative Harless's Office, yes.</p> <p>16 Q. Did you talk to about him anything else from</p> <p>17 his deposition?</p> <p>18 A. No, ma'am. Just the length.</p> <p>19 Q. Did you talk to Senator Fraser about your</p> <p>20 deposition?</p> <p>21 MR. FREDERICK: Let me interject here and</p> <p>22 say, as I think will not come as a surprise to anybody,</p> <p>23 the State of Texas will be asserting legislative</p> <p>24 privilege throughout the deposition. I will be</p> <p>25 instructing Ms. McCoy not to answer questions that seek</p>

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<p style="text-align: center;">13</p> <p>1 to discover thoughts or mental impressions of herself or</p> <p>2 Senator Fraser about pending legislation, or</p> <p>3 communications about pending legislation with</p> <p>4 legislators, staffs, state agencies, the Texas</p> <p>5 Legislative Council, and constituents.</p> <p>6 So I will instruct you, I think you can</p> <p>7 answer the question to the extent it asks for whether a</p> <p>8 conversation occurred, who was party to the conversation</p> <p>9 and how long it took, when it occurred, but I want to</p> <p>10 instruct you not to reveal the substance of any</p> <p>11 conversation that you had with the Senator. But you may</p> <p>12 answer her question.</p> <p>13 A. The Senator and I did speak about the</p> <p>14 depositions.</p> <p>15 Q. (By Ms. Maranzano) And when was that?</p> <p>16 A. We have talked about the deposition when they</p> <p>17 were trying to get scheduled, and we talked about</p> <p>18 scheduling and the timing of those depositions. And</p> <p>19 then this week, we talked several times Tuesday. Is</p> <p>20 today Wednesday? We talked several times on Tuesday</p> <p>21 strictly about the length of the depositions that have</p> <p>22 occurred so far this week, and about the fact that I'm</p> <p>23 probably going to be out of the office all day today.</p> <p>24 Q. Anything else that you discussed with the</p> <p>25 Senator?</p>	<p style="text-align: center;">15</p> <p>1 Q. And what is it?</p> <p>2 A. It's the Notice of Deposition for -- for me to</p> <p>3 appear.</p> <p>4 Q. And can I direct your attention to the third</p> <p>5 page of this document. Do you see that there's a list</p> <p>6 of documents there?</p> <p>7 A. Yes, ma'am.</p> <p>8 Q. Did you undertake a search for these documents?</p> <p>9 A. Yes, ma'am.</p> <p>10 Q. Can you describe that search to me?</p> <p>11 A. I searched -- well, it wasn't very hard,</p> <p>12 because I had a box marked Voter ID, and everything that</p> <p>13 I had ever produced was in that box. And then I did the</p> <p>14 -- I did a search of my e-mail, and I did a search of my</p> <p>15 computer files, which also, I had specific files marked</p> <p>16 as Voter ID in folders, and went through there.</p> <p>17 Q. The box that was marked Voter ID, did you</p> <p>18 say --</p> <p>19 A. Uh-huh.</p> <p>20 Q. -- can you tell me: When did you compile</p> <p>21 documents and put them in that box?</p> <p>22 A. I started compiling the box in 2009, when we</p> <p>23 were debating the legislation then.</p> <p>24 Q. Uh-huh.</p> <p>25 A. And just continued it through 2011.</p>
<p style="text-align: center;">14</p> <p>1 A. I would probably assert legislative privilege</p> <p>2 at this point.</p> <p>3 Q. Was anybody else present during these</p> <p>4 conversations?</p> <p>5 A. No.</p> <p>6 Q. Did these conversations take place in person?</p> <p>7 A. No.</p> <p>8 Q. On the phone?</p> <p>9 A. Yes.</p> <p>10 Q. Okay.</p> <p>11 A. I'm sorry. Jennifer, we -- the Senator and I</p> <p>12 also spoke this morning as I was coming over here, so</p> <p>13 yesterday and this morning.</p> <p>14 Q. And did you speak on the phone this morning?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. For about how long?</p> <p>17 A. Five, ten minutes.</p> <p>18 Q. Was that also about the length of time of the</p> <p>19 deposition?</p> <p>20 A. Yes.</p> <p>21 (Exhibit 30 marked for identification.)</p> <p>22 Q. (By Ms. Maranzano) I'm showing you what we've</p> <p>23 marked as Deposition Exhibit 30. Can you take a look at</p> <p>24 it and tell me if you recognize this document?</p> <p>25 A. I do.</p>	<p style="text-align: center;">16</p> <p>1 Q. And what documents would go in that box?</p> <p>2 A. Studies, polls, information from agencies,</p> <p>3 constituent letters, documents related to the</p> <p>4 legislative process.</p> <p>5 Q. Does that box contain all of your documents</p> <p>6 about voter ID?</p> <p>7 A. That box contains all of my documents about</p> <p>8 voter ID from 2009 forward.</p> <p>9 Q. Did you collect documents prior to 2009?</p> <p>10 A. In 2007, Senator Fraser was the Senate sponsor</p> <p>11 of a House bill related to voter ID, and that particular</p> <p>12 bill folder has been archived, and those documents were</p> <p>13 provided to the Attorney General electronically, not in</p> <p>14 written form.</p> <p>15 Q. And when you say that you -- well, let me ask</p> <p>16 you this: About how many documents are in that box?</p> <p>17 A. Hundreds.</p> <p>18 (Mr. Patrick Sweeten joins the</p> <p>19 deposition.)</p> <p>20 Q. (By Ms. Maranzano) And then you said you</p> <p>21 searched your e-mail and computer files?</p> <p>22 A. Yes, ma'am.</p> <p>23 Q. How did you search your e-mail?</p> <p>24 A. The Legislative Council provided a list of</p> <p>25 terms to search on, and so I searched on those terms.</p>

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<p style="text-align: center;">17</p> <p>1 Q. And how did you search your computer files?</p> <p>2 A. Again, all of my voter ID stuff was in the same</p> <p>3 folders. I created specific folders for voter ID. And</p> <p>4 so other than looking in, potentially, the media folder,</p> <p>5 I just -- actually just went and grabbed those files and</p> <p>6 provided them to the Attorney General.</p> <p>7 Q. So all the documents you found, you provided to</p> <p>8 the Office of the Attorney General?</p> <p>9 A. Yes, ma'am.</p> <p>10 Q. Can I direct your attention particularly to</p> <p>11 Number 5, Request Number 5? Can you read that for me</p> <p>12 please.</p> <p>13 A. "All documents and communications, including</p> <p>14 but not limited to those among and between staff,</p> <p>15 members of the Texas Legislature, the Texas Legislative</p> <p>16 Council, and other Texas State executive offices and</p> <p>17 agencies relating to any calculations, reports, audits,</p> <p>18 estimates, projections, assessments, or other analysis</p> <p>19 of the effect that SB 14 will impose upon minority</p> <p>20 voters."</p> <p>21 Q. Did you search for documents responsive to</p> <p>22 Request Number 5?</p> <p>23 A. I searched for all documents related to voter</p> <p>24 ID.</p> <p>25 Q. Did you have any documents responsive to</p>	<p style="text-align: center;">19</p> <p>1 Q. Can I direct your attention to -- let me ask</p> <p>2 you this about Request Number 8: Where were those</p> <p>3 documents?</p> <p>4 A. The public statements that I wrote for the</p> <p>5 Senator on voter ID were stored on my computer.</p> <p>6 Q. Now, when you say the public statements that</p> <p>7 you wrote, are there public statements that you did not</p> <p>8 write that the Senator made?</p> <p>9 A. Potentially, yes.</p> <p>10 Q. And is there a reason you didn't search for</p> <p>11 those, too?</p> <p>12 MR. FREDERICK: Objection to the extent it</p> <p>13 misstates the testimony.</p> <p>14 Q. (By Ms. Maranzano) Did you search for -- I</p> <p>15 understood you to say that --</p> <p>16 A. I did not search newspaper articles for</p> <p>17 comments that the Senator made.</p> <p>18 Q. And -- okay. Just so I'm understanding you, do</p> <p>19 you keep newspaper articles --</p> <p>20 A. No.</p> <p>21 Q. -- in which the Senator makes comments?</p> <p>22 A. No.</p> <p>23 MR. FREDERICK: Let her finish the</p> <p>24 question.</p> <p>25 THE WITNESS: Oh, okay.</p>
<p style="text-align: center;">18</p> <p>1 Request Number 5?</p> <p>2 A. No.</p> <p>3 Q. Can I direct your attention to Request</p> <p>4 Number 8? Did you search for documents responsive to</p> <p>5 Request Number 8?</p> <p>6 A. Yes.</p> <p>7 Q. Did you find any responsive documents?</p> <p>8 A. Yes.</p> <p>9 Q. Can you tell me how many?</p> <p>10 A. No.</p> <p>11 Q. Because you don't know?</p> <p>12 A. Because I didn't count them.</p> <p>13 Q. Can you approximate how many?</p> <p>14 MR. FREDERICK: For the record, I'll</p> <p>15 object to the extent it calls for speculation. But if</p> <p>16 you can approximate, you may answer the question.</p> <p>17 A. I mean, I'm just trying -- the guess that I</p> <p>18 would make, if you're talking about things the Senator</p> <p>19 said publicly that I actually wrote and did a public --</p> <p>20 a press release on, was probably four or five a session</p> <p>21 that we would write a public statement.</p> <p>22 Q. (By Ms. Maranzano) Okay. And you mentioned the</p> <p>23 Senator's involvement in the 2007 legislation. Was he</p> <p>24 also involved in the 2005 legislation?</p> <p>25 A. No, ma'am.</p>	<p style="text-align: center;">20</p> <p>1 Q. (By Ms. Maranzano) Can I direct your attention</p> <p>2 to Request Number 11. Can you take a look at that? Did</p> <p>3 you search for documents that were responsive to Request</p> <p>4 Number 11?</p> <p>5 A. Yes.</p> <p>6 Q. Did you have any documents that were responsive</p> <p>7 to Request Number 11?</p> <p>8 A. No.</p> <p>9 Q. Ms. McCoy, can you tell me a little bit about</p> <p>10 your educational background?</p> <p>11 A. I graduated from a Texas public high school out</p> <p>12 of Houston and went to Texas A&M University and got a</p> <p>13 bachelor of science degree awarded in 1991 in political</p> <p>14 science.</p> <p>15 Q. Any other schooling?</p> <p>16 A. No, ma'am.</p> <p>17 Q. What's your -- what's your job title?</p> <p>18 A. Chief of staff.</p> <p>19 Q. For?</p> <p>20 A. I'm sorry.</p> <p>21 Q. For who?</p> <p>22 A. Senator Troy Fraser.</p> <p>23 Q. What was your job prior to working for Senator</p> <p>24 Fraser?</p> <p>25 A. I worked for the Republican Party of Texas.</p>

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<p style="text-align: center;">21</p> <p>1 Q. How long did you work for the Republican Party 2 of Texas?</p> <p>3 A. Twelve and a half, 13 months.</p> <p>4 Q. And what was your title with them?</p> <p>5 A. Coalitions Director.</p> <p>6 Q. And when did you start working for them and 7 when did you complete your time there?</p> <p>8 A. I started working for the Republican Party in 9 August of 1997, and it ended in September of 1998.</p> <p>10 Q. When did you start working for Senator Fraser?</p> <p>11 A. September of 1998.</p> <p>12 Q. What does it mean to be a coalitions director?</p> <p>13 A. The chairwoman who hired me wanted to try and 14 be more inclusive and bring different types of 15 coalitions to the Republican Party.</p> <p>16 Q. What coalitions did she want to bring to the 17 Republican Party?</p> <p>18 A. We tried to create a Hispanic Business 19 Council. Now you're testing my memory. I don't know if 20 that's the exact title or not. But there was a couple 21 -- there was another group, but I can't remember. I'm 22 sorry.</p> <p>23 Q. There was another -- another group that you 24 formed with the Republican --</p> <p>25 A. Yes.</p>	<p style="text-align: center;">23</p> <p>1 A. In 1999, they did transportation. They did 2 elections. They did tort reform.</p> <p>3 Q. Anything else that you can remember?</p> <p>4 A. I can't remember.</p> <p>5 Q. Are those the same issues that they do now?</p> <p>6 A. They do -- State Affairs no longer does 7 transportation.</p> <p>8 Q. Okay. How long were you a legislative 9 assistant for Senator Fraser?</p> <p>10 A. I think in 2000, I became legislative 11 director. In or around the year 2000, I became 12 legislative director, and then I became chief of staff 13 in December of 2004.</p> <p>14 Q. What did you do as Senator Fraser's legislative 15 director?</p> <p>16 A. Similar things; legislative assistant, policy 17 work, constituent work, bill analysis. But I also 18 directed the other legislative staff in their work.</p> <p>19 Q. Did you have the same legislative areas that 20 you worked on when you were the legislative director as 21 when you were a legislative assistant, or did you change 22 your area of focus?</p> <p>23 A. I think in the 2001 session, I worked on 24 business and commerce issues and in the 2003 session. 25 No, that's not right. It all runs together. I'm</p>
<p style="text-align: center;">22</p> <p>1 Q. The Republican Party of Texas?</p> <p>2 A. Yes.</p> <p>3 Q. How did you get your job with Senator Fraser?</p> <p>4 A. The current chief of staff and I had met, and 5 he interviewed me and offered me a position.</p> <p>6 Q. Did you start working for Senator Fraser as 7 chief of staff or as something else?</p> <p>8 A. Something else.</p> <p>9 Q. And what was that position?</p> <p>10 A. Legislative assistant.</p> <p>11 Q. And what did you do as a legislative assistant?</p> <p>12 A. I did policy work, reviewed bills, answered 13 constituent inquiries.</p> <p>14 Q. Any areas of legislative specialty as a 15 legislative assistant?</p> <p>16 A. No.</p> <p>17 Q. And just so I'm clear, I meant, did you have 18 any areas of --</p> <p>19 A. Right. I -- I was assigned to the State 20 Affairs Committee. Senator Fraser sat on that 21 committee, and I worked that committee.</p> <p>22 Q. And what --</p> <p>23 A. I think. I'm sorry. I don't remember.</p> <p>24 Q. Okay. What issues does the State Affairs 25 Committee deal with?</p>	<p style="text-align: center;">24</p> <p>1 sorry. It seems like it should have been yesterday, and 2 it wasn't. At some point, State Affairs was my focus, 3 and at some point, State Affairs, workers' comp -- no 4 business and commerce became my focus, and I started 5 doing workers' comp issues. And then in 2003, Senator 6 Fraser became Chair of Business and Commerce. So in 7 2001, I did Business and Commerce. 2003, I think I went 8 back to State Affairs.</p> <p>9 Q. Can you describe for me all of your experience 10 that relates to election law?</p> <p>11 A. My experience related to election law is 12 related to when I staffed State Affairs and monitoring 13 and analyzing the legislation that impacted the election 14 code.</p> <p>15 Q. And you staffed State Affairs as a legislative 16 assistant, correct?</p> <p>17 A. Yes, ma'am. And then again in 2003, as 18 legislative director. In 2005 as well, I think.</p> <p>19 Q. And do you staff State Affairs as the chief of 20 staff?</p> <p>21 A. No, ma'am.</p> <p>22 Q. Do you have any experience related to election 23 administration?</p> <p>24 A. Yes, ma'am.</p> <p>25 Q. What's that experience?</p>

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<p style="text-align: center;">25</p> <p>1 A. In 1998, when I worked for the Republican Party 2 of Texas, I was also, in addition to being coalitions 3 director, they asked me to help their primary 4 administrator with some of her job. 5 Q. And what was that job? 6 A. To help coordinate the county chairs and get 7 them the information they needed to run their election, 8 the primary election, and then get that information back 9 so it could get certified by the chairman of the 10 Republican Party. 11 Q. Have you ever worked at a polling place on 12 election day? 13 A. Yes, ma'am. 14 Q. In what capacity? 15 A. Election judge. 16 Q. And can you describe for me what an election 17 judge does? 18 A. The election judge helps run the primary in 19 terms of getting the ballots in the ballot box to the 20 polling location, ensuring that the voters are voting in 21 the correct location and that they're eligible to vote 22 at that location, and then when the polls close, getting 23 the ballots back to the county. 24 Q. Have you ever witnessed any problems at a 25 polling place while you were serving as election judge?</p>	<p style="text-align: center;">27</p> <p>1 drafting legislation? 2 A. There's several ways you can draft 3 legislation. Once an idea is -- once it's determined 4 that the Senator wants to carry legislation, we 5 typically make a request to either the Texas Legislative 6 Council or Senate Engrossing and Enrolling and we just 7 send them -- or the Texas Legislative Council with just, 8 you know, general two, three lines, this is what we'd 9 like to see the law do, and then they draft it. And 10 during session, occasionally we will draft -- I will 11 draft amendments to various legislation, if they're in 12 order to facilitate movement. 13 Q. If a Senator -- if the Senator has proposed 14 legislation, do you work on trying to ensure that 15 legislation gets passed? 16 A. Yes. 17 Q. Can you describe that process for me? 18 MR. FREDERICK: I'll object, and to the 19 extent that it calls for communications that you might 20 have had with legislators, staff, state agencies, the 21 TLC, or constituents about pending legislation, I'll 22 instruct you not to answer on the basis of privilege. 23 But to the extent you can answer without relying on 24 that, you're free to answer the question. 25 Q. (By Ms. Maranzano) And I'm asking you right now</p>
<p style="text-align: center;">26</p> <p>1 A. No, ma'am. 2 MR. FREDERICK: Objection, vague. 3 THE WITNESS: Sorry? 4 MR. FREDERICK: It's okay. You can 5 answer. 6 A. No. 7 Q. (By Ms. Maranzano) Did you ever witness anyone 8 trying to impersonate another voter while you were 9 serving as election judge at a polling place? 10 A. No. 11 Q. Can you describe all of your current 12 responsibilities as chief of staff for Senator Fraser to 13 me, please. 14 A. I'm responsible for managing the office in 15 terms of just Senate paperwork, time sheets, travel 16 vouchers, general day-to-day business of making sure the 17 Senate office runs. I'm responsible for overseeing and 18 directing six staff people, in terms of giving them 19 advice about issues that they see or are dealing with in 20 their roles working for the Senator. I handle the 21 Senator's media relations, and I continue to work policy 22 and legislative issues for the Senator. 23 Q. Do you assist with drafting legislation? 24 A. Yes, ma'am. 25 Q. In what capacity? What role do you play in</p>	<p style="text-align: center;">28</p> <p>1 in a general sense what your role is in that capacity. 2 A. In a general sense, once a piece of legislation 3 has been drafted by whomever drafted it, as staff, we 4 get the bill filed with the calendar clerk, and then it 5 goes through a general process that every bill goes 6 through, and once it gets referred to a committee, we 7 make the bill hearing request. Along with the bill 8 hearing request, we will do a bill analysis, or provide 9 information to the committee so that they can have a 10 bill analysis prepared. Once the bill is set for a 11 hearing, we will help the Senator with talking points. 12 If the bill makes it out of committee, we 13 will -- in the Senate, we have what's called an intent 14 calendar, so it's my job to -- once when we're ready to 15 move something on the Floor, we will notify the intent 16 calendar, essentially, and we will do talk -- and once 17 we're going to be recognized on the Floor, we'll do 18 talking points for the Floor. And then if it passes the 19 Senate, we will provide that information to -- the same 20 sort of talking points and data that we have to whoever 21 will pick up the bill in the House. 22 Q. What is a bill analysis? I think you mentioned 23 that in regards to the committee portion of the bill. 24 A. The Senate rules require that every bill have 25 an analysis attached to it. The committees are</p>

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<p style="text-align: center;">29</p> <p>1 responsible for -- in the Senate, the committees are</p> <p>2 responsible for putting that bill analysis together.</p> <p>3 The Senate Research Center helps with that; it's an arm</p> <p>4 of the Senate, and it basically provides a general</p> <p>5 description of the bill, and then it will provide a</p> <p>6 section-by-section analysis.</p> <p>7 Q. Do you have -- do you personally have</p> <p>8 communications with other legislators?</p> <p>9 A. Yes.</p> <p>10 Q. Regularly about legislation?</p> <p>11 A. I mean, regularly is an interesting term.</p> <p>12 During session?</p> <p>13 Q. Uh-huh.</p> <p>14 A. Yes. During the interim, no.</p> <p>15 Q. Are your communications with other legislators</p> <p>16 usually related to bills that Senator Fraser is</p> <p>17 sponsoring or authoring?</p> <p>18 A. Yes.</p> <p>19 Q. What else would communications with other</p> <p>20 legislators be about?</p> <p>21 A. Potentially, it could be about that</p> <p>22 legislator's legislation, if I have a question about it.</p> <p>23 Q. Okay.</p> <p>24 A. I don't --</p> <p>25 Q. About how many times -- during the legislative</p>	<p style="text-align: center;">31</p> <p>1 Q. Is communicating with interest groups or</p> <p>2 advocacy groups one of your responsibilities?</p> <p>3 A. Yes.</p> <p>4 Q. And you said that you had a role in drafting</p> <p>5 legislation. Do you have a role in researching issues</p> <p>6 that might be related to legislation?</p> <p>7 A. Yes.</p> <p>8 Q. When Senator Fraser is taking a vote on a bill,</p> <p>9 what's your role in regards to that legislation? Do you</p> <p>10 make a recommendation to him?</p> <p>11 A. Yes, ma'am. We do.</p> <p>12 Q. You do. Does that role change if the Senator</p> <p>13 is the sponsor of a bill?</p> <p>14 A. No.</p> <p>15 Q. Can you tell me, I think you said the Senator</p> <p>16 has six staff people?</p> <p>17 A. Well, I'm seven. Yeah.</p> <p>18 Q. Can you tell me their names and their titles?</p> <p>19 A. We have three people working in the district.</p> <p>20 They're all called district coordinators. Mel Ferguson,</p> <p>21 Blake Woodall, Ralph Gauer, G-a-u-e-r. And then</p> <p>22 currently in Austin, in addition to myself, we have</p> <p>23 three people, and Terri Mathis is scheduler. Will</p> <p>24 McAdams, policy analyst. I think that's his title,</p> <p>25 legislative analyst, policy analyst, something like</p>
<p style="text-align: center;">30</p> <p>1 session, about how many times in a given week would you</p> <p>2 talk to another legislator? Not Senator Fraser, a</p> <p>3 different legislator.</p> <p>4 A. I talk to other legislators pretty much every</p> <p>5 day during session.</p> <p>6 Q. Do you communicate with the Executive Branch</p> <p>7 about legislation?</p> <p>8 A. Yes.</p> <p>9 Q. About how frequently during a legislative</p> <p>10 session do you communicate with the Executive Branch?</p> <p>11 A. Infrequently. It depends on the bill. I mean,</p> <p>12 if it's something that is changing the way an agency</p> <p>13 does business, it could be every day. If it's a bill</p> <p>14 that doesn't do that, then maybe never. I mean...</p> <p>15 Q. About how frequently do you communicate with</p> <p>16 the Governor's Office about legislation?</p> <p>17 A. Two, three times a session.</p> <p>18 Q. About how frequently do you communicate with</p> <p>19 the Lieutenant Governor's Office about legislation?</p> <p>20 A. Every day. During session. I'm sorry.</p> <p>21 Q. Yeah. When we were talking about your</p> <p>22 responsibilities as chief of staff, did you say</p> <p>23 communicating with constituents was one of your</p> <p>24 responsibilities?</p> <p>25 A. I might not have said it, but it would be, yes.</p>	<p style="text-align: center;">32</p> <p>1 that. And then Whitney Smith-Nelson, administrative</p> <p>2 assistant.</p> <p>3 Q. Do the staff people in the district office have</p> <p>4 any role in legislative efforts the Senator makes?</p> <p>5 A. No.</p> <p>6 Q. Does your office have a records retention</p> <p>7 policy?</p> <p>8 A. No.</p> <p>9 Q. None?</p> <p>10 A. Our specific office does not have a records</p> <p>11 retention policy.</p> <p>12 Q. When you say "our specific office," you mean</p> <p>13 Senator Fraser's office?</p> <p>14 A. Yes, ma'am.</p> <p>15 Q. Do you retain records?</p> <p>16 A. No, not --</p> <p>17 Q. What prompted you to save certain files from</p> <p>18 2009 voter ID?</p> <p>19 A. I knew that the Senator would want to try again</p> <p>20 in 2011.</p> <p>21 Q. How often do you communicate with Senator</p> <p>22 Fraser?</p> <p>23 A. During the interim? Two or three times a week.</p> <p>24 Q. I'm sorry. During the interim, can you</p> <p>25 describe what you mean by that?</p>

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<p style="text-align: center;">33</p> <p>1 A. The Texas legislature is in regular session for</p> <p>2 140 days in odd-numbered years. The rest of the time,</p> <p>3 it's called the interim. And that's the period we're in</p> <p>4 right now, and I speak with him two or three times a</p> <p>5 week during the interim.</p> <p>6 Q. And by what means do you communicate with him,</p> <p>7 usually, during the interim?</p> <p>8 A. Phone.</p> <p>9 Q. Just phone?</p> <p>10 A. (Witness nods head yes.)</p> <p>11 Q. And do you speak on the phone, or do you text</p> <p>12 message each other?</p> <p>13 A. Both.</p> <p>14 Q. Is that on the Senator's personal phone or an</p> <p>15 official government phone?</p> <p>16 A. Personal phone.</p> <p>17 Q. Is that on your personal phone or an official</p> <p>18 government phone?</p> <p>19 A. Both, depending on what time of day it is.</p> <p>20 Q. Do you save those messages on your phone?</p> <p>21 A. No.</p> <p>22 Q. Not at all, or not for any length of time at</p> <p>23 all?</p> <p>24 A. I don't save anything.</p> <p>25 Q. Do you delete them, meaning, if they're not on</p>	<p style="text-align: center;">35</p> <p>1 A. I don't know.</p> <p>2 Q. Can you give me an estimate?</p> <p>3 A. The Senator typically does not author election-</p> <p>4 related legislation. He sponsors it. So typically, I</p> <p>5 would say, because of his seat on State Affairs, House</p> <p>6 members will ask him to pick up their election bills,</p> <p>7 and it could be 10 or 15 a session. That's not to say</p> <p>8 that he hasn't authored election related, other than,</p> <p>9 obviously, voter ID, I just -- I don't -- I don't know.</p> <p>10 Q. So as you sit here, you can't think of other</p> <p>11 election-related bills that Senator Fraser has authored</p> <p>12 other than voter ID bills?</p> <p>13 A. That's correct.</p> <p>14 Q. And he has sponsored about 10 to 15 election-</p> <p>15 related bills in those legislative sessions that you</p> <p>16 worked in?</p> <p>17 A. That's a good guess.</p> <p>18 Q. During the time that you've worked for Senator</p> <p>19 Fraser, how many immigration-related bills has Senator</p> <p>20 Fraser authored?</p> <p>21 A. I don't know.</p> <p>22 Q. Can you give me an approximation?</p> <p>23 A. My guess would be none.</p> <p>24 Q. How about how many immigration-related bills</p> <p>25 has Senator Fraser sponsored or co-sponsored?</p>
<p style="text-align: center;">34</p> <p>1 your phone now, is that because they weren't archived in</p> <p>2 some manner or --</p> <p>3 A. Right. I delete them.</p> <p>4 Q. Okay. So other than the phone during the</p> <p>5 interim, do you communicate with the Senator in any</p> <p>6 other ways?</p> <p>7 A. I will, if I'm writing a speech or if he needs</p> <p>8 some information, I fax things to his home. But other</p> <p>9 than that, I do not communicate with him in any other</p> <p>10 way.</p> <p>11 Q. When you're in the legislative session --</p> <p>12 A. Yes, ma'am.</p> <p>13 Q. -- how often do you communicate with the</p> <p>14 Senator?</p> <p>15 A. Every day.</p> <p>16 Q. And how do you usually communicate with him?</p> <p>17 A. Verbally.</p> <p>18 Q. Do you and the Senator ever exchange e-mails?</p> <p>19 A. I have sent him e-mail. He does not respond.</p> <p>20 Q. Do you send e-mail to his personal account or</p> <p>21 to a government account?</p> <p>22 A. Personal.</p> <p>23 Q. During the time that you worked for Senator</p> <p>24 Fraser, how many election-related bills has the Senator</p> <p>25 authored?</p>	<p style="text-align: center;">36</p> <p>1 A. Again, my guess would be none, but I don't</p> <p>2 know.</p> <p>3 Q. Are you familiar with Section 5 of the Voting</p> <p>4 Rights Act?</p> <p>5 A. I know what it is.</p> <p>6 Q. What's your understanding of the requirements</p> <p>7 of Section 5?</p> <p>8 A. My understanding is that Section 5 of the</p> <p>9 Voting Rights Act requires the Department of Justice to</p> <p>10 review election-related legislation for nine specific</p> <p>11 states and a few other entities, and to ensure that</p> <p>12 those election changes don't discriminate against</p> <p>13 minorities.</p> <p>14 Q. Did you think it was important to save your</p> <p>15 voter ID files because of Section 5 of the Voting Rights</p> <p>16 Act?</p> <p>17 A. No.</p> <p>18 Q. How does the Legislature ensure that an</p> <p>19 election-related change complies with Section 5 of the</p> <p>20 Voting Rights Act?</p> <p>21 MR. FREDERICK: Let me interpose an</p> <p>22 objection. To the extent that the question seeks</p> <p>23 information that reflects thoughts or mental impressions</p> <p>24 about pending legislation or privileged communications,</p> <p>25 I'll instruct you not to answer. I think that the</p>

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<p style="text-align: center;">37</p> <p>1 question is more general. And to the extent it doesn't</p> <p>2 call for privileged information or communications, you</p> <p>3 may answer the question.</p> <p>4 A. Can you ask the question again?</p> <p>5 Q. (By Ms. Maranzano) Yes. How does the Texas</p> <p>6 Legislature ensure that an election-related change to</p> <p>7 the law complies with Section 5 of the Voting Rights</p> <p>8 Act?</p> <p>9 A. I don't know.</p> <p>10 Q. Do you believe that compliance with the Voting</p> <p>11 Rights Act is important?</p> <p>12 MR. FREDERICK: Object to relevance.</p> <p>13 Q. (By Ms. Maranzano) You can answer.</p> <p>14 A. No.</p> <p>15 Q. Why not?</p> <p>16 A. I don't believe it's fair that nine states --</p> <p>17 personally don't believe it's fair that nine states are</p> <p>18 singled out in 2012.</p> <p>19 Q. To your knowledge, does Senator Fraser believe</p> <p>20 that compliance with the Voting Rights Act is important?</p> <p>21 A. I don't speak to the Senator's beliefs.</p> <p>22 Q. In regards to your files on voter ID, did</p> <p>23 anybody instruct you not to save those files?</p> <p>24 A. No.</p> <p>25 Q. Did anybody instruct you to delete your text</p>	<p style="text-align: center;">39</p> <p>1 A. I think in -- are we talking about in-person</p> <p>2 voter fraud or voter fraud?</p> <p>3 Q. Well, let's talk generally first.</p> <p>4 A. I mean, I think, yes, there are instances of</p> <p>5 voter fraud in that we know that there is some being</p> <p>6 prosecuted. Particularly, mail-in ballots are probably</p> <p>7 the worst offenders, where we actually have the tools to</p> <p>8 catch fraud. In-person voter fraud, I'm not personally</p> <p>9 aware of any.</p> <p>10 Q. When you said earlier that this -- the current</p> <p>11 system, I think you said, it left -- it left open the</p> <p>12 possibility of in-person voter fraud? Is that a correct</p> <p>13 summary of your testimony?</p> <p>14 A. Yes, ma'am.</p> <p>15 Q. What would somebody need to do to commit</p> <p>16 in-person voter fraud under the current system?</p> <p>17 MR. FREDERICK: Objection to the extent it</p> <p>18 calls for speculation, but you may answer, if you can.</p> <p>19 Q. (By Ms. Maranzano) What did you mean by it</p> <p>20 leaves open the possibility?</p> <p>21 A. You could register yourself five times, five</p> <p>22 different names, go vote five times. You could steal</p> <p>23 someone's voter registration card and go vote. You</p> <p>24 could, you know, borrow. Like, I don't have time to</p> <p>25 vote, you go vote for me. Someone could go vote twice.</p>
<p style="text-align: center;">38</p> <p>1 messages?</p> <p>2 A. No.</p> <p>3 Q. Can you tell me, describe for me, the current</p> <p>4 system in Texas by which a voter's identity is verified</p> <p>5 at the polls?</p> <p>6 A. Under current law, the voter who does not show</p> <p>7 up with a voter registration card -- well, under current</p> <p>8 law, if a voter shows up with a voter registration card</p> <p>9 and they're on the rolls, gets to vote. That's all they</p> <p>10 need is the card. If you don't have a card, under</p> <p>11 current law, you can show several different forms of</p> <p>12 ID: Photo, one photo, with several options, or two</p> <p>13 nonphoto.</p> <p>14 Q. Are you aware of any problems with the system?</p> <p>15 MR. FREDERICK: Objection, vague, but you</p> <p>16 may answer.</p> <p>17 A. I think that the system works mostly, but it's</p> <p>18 open to fraud.</p> <p>19 Q. (By Ms. Maranzano) Why do you say that?</p> <p>20 A. Because the voter registration card doesn't</p> <p>21 necessarily have to be the person who is standing there</p> <p>22 with it.</p> <p>23 Q. Are you aware of instances of voter fraud?</p> <p>24 A. No, ma'am.</p> <p>25 Q. Are you aware of any instances of voter fraud?</p>	<p style="text-align: center;">40</p> <p>1 Q. Are you familiar with the voter registration</p> <p>2 application in Texas?</p> <p>3 A. Generally.</p> <p>4 Q. Does somebody have to make certain attestations</p> <p>5 on that voter registration application?</p> <p>6 A. Yes, ma'am.</p> <p>7 Q. And what are those?</p> <p>8 A. I think that you are who you say you are, and</p> <p>9 you live where you say you live, but I don't know for</p> <p>10 sure.</p> <p>11 Q. Does somebody have to swear that they are a</p> <p>12 citizen on the voter registration application?</p> <p>13 A. I think so.</p> <p>14 Q. When was SB 14 signed into law?</p> <p>15 A. Around the end of May 2011.</p> <p>16 Q. Have there been elections since the time that</p> <p>17 SB 14 was signed into law?</p> <p>18 A. Yes, ma'am.</p> <p>19 Q. Was SB 14 enforced in those elections?</p> <p>20 A. No, ma'am.</p> <p>21 Q. Are you aware of any in-person voter fraud that</p> <p>22 occurred in any of those elections?</p> <p>23 A. No, ma'am.</p> <p>24 Q. I believe you testified earlier that there was</p> <p>25 a photo ID bill introduced in 2007; is that correct?</p>

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<p style="text-align: center;">41</p> <p>1 A. Yes, ma'am.</p> <p>2 MS. MARANZANO: Can I get that marked?</p> <p>3 We can do 28.</p> <p>4 (Exhibit 28 marked for identification.)</p> <p>5 Q. (By Ms. Maranzano) Can you take a look at that</p> <p>6 exhibit that has been marked for the record as</p> <p>7 Deposition Exhibit 28?</p> <p>8 A. (Viewing document.)</p> <p>9 Q. Do you recognize this?</p> <p>10 A. Yes, ma'am.</p> <p>11 Q. What is it?</p> <p>12 A. It looks like the filed version of House Bill</p> <p>13 218 from 2007.</p> <p>14 Q. Can you tell me what forms of identification</p> <p>15 were permitted under House Bill -- is this House Bill</p> <p>16 218?</p> <p>17 A. Yes, ma'am.</p> <p>18 Q. Can you tell me what forms of identification</p> <p>19 this bill would have permitted?</p> <p>20 MR. FREDERICK: And take your time. If</p> <p>21 you need a minute to review.</p> <p>22 A. Oh, no, I just to find it. Under Section 11 of</p> <p>23 the bill --</p> <p>24 Q. (By Ms. Maranzano) Uh-huh.</p> <p>25 A. -- it shows eight different forms of photo ID</p>	<p style="text-align: center;">43</p> <p>1 about pending legislation or requires information that</p> <p>2 would reflect communications with legislators, staff,</p> <p>3 state agencies, the Texas Legislative Council,</p> <p>4 constituents, I'll instruct you not to answer on the</p> <p>5 basis of privilege. If you are able to answer without</p> <p>6 relying on privileged matters, you may do so.</p> <p>7 A. Can you ask the question again?</p> <p>8 Q. (By Ms. Maranzano) Yeah. My question is: Do</p> <p>9 you think HB 218 would have made an improvement on the</p> <p>10 current system that you described to me, where a voter</p> <p>11 shows their voter registration card or other forms of ID</p> <p>12 when they show up to vote?</p> <p>13 MR. FREDERICK: Same objection and</p> <p>14 objection. But you may answer if you can.</p> <p>15 Q. (By Ms. Maranzano) Do you have an answer to</p> <p>16 that, ma'am? Thinking?</p> <p>17 A. Yeah. My personal opinion is no.</p> <p>18 Q. What's Senator Fraser's opinion on that?</p> <p>19 MR. FREDERICK: Object to the extent it</p> <p>20 calls for a legislator's thoughts and mental impressions</p> <p>21 about pending legislation, and I'll instruct you not to</p> <p>22 answer that question.</p> <p>23 A. I choose not to answer.</p> <p>24 Q. (By Ms. Maranzano) Would HB 218 prevent a voter</p> <p>25 from voting multiple times?</p>
<p style="text-align: center;">42</p> <p>1 that were acceptable: Driver's license, ID card,</p> <p>2 military card, employee ID card, citizen's certificate</p> <p>3 that has a photo, passport, student ID card, concealed</p> <p>4 handgun license, or a valid ID card issued by a</p> <p>5 government institution, federal or local.</p> <p>6 And then if you didn't have photo ID, the</p> <p>7 bill would allow two forms. Well, I thought it was two,</p> <p>8 but I don't see that in here. The bill would allow for</p> <p>9 some forms of nonphoto ID, which is also in Section 11:</p> <p>10 Utility bills, bank statements, official mail, birth</p> <p>11 certificate, citizenship papers, marriage license,</p> <p>12 divorce decree, court records.</p> <p>13 Q. So under HB 218, am I correct that a voter</p> <p>14 could show either a form of photo identification or</p> <p>15 forms of nonphoto identification?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. Does nonphoto verification verify a voter's</p> <p>18 identity?</p> <p>19 A. Most of the time, yes.</p> <p>20 Q. Is there something about the forms of nonphoto</p> <p>21 identification in HB 218 that you think verifies an</p> <p>22 identity in a more secure fashion than a voter</p> <p>23 registration card?</p> <p>24 MR. FREDERICK: Object to the extent that</p> <p>25 this seeks information of thoughts or mental impressions</p>	<p style="text-align: center;">44</p> <p>1 MR. FREDERICK: I'll make the same</p> <p>2 objection. To the extent it calls for privileged</p> <p>3 information, thoughts or mental impressions or</p> <p>4 privileged communications. But to the extent you can</p> <p>5 answer without relying on privileged matters, you may do</p> <p>6 so.</p> <p>7 A. I have no answer.</p> <p>8 Q. (By Ms. Maranzano) Have you no answer because</p> <p>9 of the instruction?</p> <p>10 A. Yes, ma'am.</p> <p>11 Q. Okay. What was the purpose of including two</p> <p>12 forms of photo identification at HB 1218?</p> <p>13 MR. FREDERICK: Objection to the extent it</p> <p>14 seeks thoughts or mental impressions you or Senator</p> <p>15 Fraser may have had about pending legislation or</p> <p>16 communications that are privileged. To the extent that</p> <p>17 you can answer without relying on privileged matters,</p> <p>18 you may answer the question.</p> <p>19 Q. (By Ms. Maranzano) And for the record, this is</p> <p>20 about the legitimate purpose of part of this bill.</p> <p>21 A. I think you are better off asking</p> <p>22 Representative Betty Brown.</p> <p>23 Q. Betty Brown. Did the Senator bring HB 218 to</p> <p>24 the Senate Floor?</p> <p>25 A. He did.</p>

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<p style="text-align: center;">45</p> <p>1 Q. And did you have a role in that?</p> <p>2 A. I did.</p> <p>3 Q. Do you know what the purpose of including two</p> <p>4 forms of nonphoto ID in HB 218 was?</p> <p>5 MR. FREDERICK: I'll make the same</p> <p>6 objection.</p> <p>7 But I think she's just asking just a</p> <p>8 yes-or-no question, so you may answer whether or not you</p> <p>9 know.</p> <p>10 A. I was not part of how House Bill developed in</p> <p>11 the House. My personal belief is that they included two</p> <p>12 forms of voter ID in order to get the necessary votes to</p> <p>13 move it out of the House.</p> <p>14 Q. Okay.</p> <p>15 MS. MARAZANO: And just to clarify the</p> <p>16 record, it's my understanding that Mr. Sweeten has</p> <p>17 actually alerted the court that you all are going to</p> <p>18 allow witnesses to answer questions about legislative</p> <p>19 purpose. I missed the e-mail, but that's my</p> <p>20 understanding of what has happened, so...</p> <p>21 MR. FREDERICK: No. Consistent, I think,</p> <p>22 with what we have tried to convey yesterday and today,</p> <p>23 we will permit testimony about legislative purpose to</p> <p>24 the extent that is available from nonprivileged sources.</p> <p>25 MS. MARAZANO: Okay. This might be</p>	<p style="text-align: center;">47</p> <p>1 being asserted?</p> <p>2 A. Yes.</p> <p>3 Q. Did you have any conversations with</p> <p>4 constituents about HB 218?</p> <p>5 A. Yes.</p> <p>6 Q. How many?</p> <p>7 A. How many conversations or how many</p> <p>8 constituents? Sorry.</p> <p>9 Q. That's an important distinction. Let's start</p> <p>10 with how many constituents.</p> <p>11 A. Verbally, I probably spoke to five to ten</p> <p>12 constituents.</p> <p>13 Q. Did you speak to any of these constituents on</p> <p>14 multiple occasions?</p> <p>15 A. Yes.</p> <p>16 Q. About how many did you speak to on multiple</p> <p>17 occasions?</p> <p>18 A. How many constituents?</p> <p>19 Q. Uh-huh.</p> <p>20 A. One.</p> <p>21 Q. And was this a conversation on the phone? In</p> <p>22 person? In another means?</p> <p>23 A. Most of the time, the conversations with this</p> <p>24 one constituent were in person.</p> <p>25 Q. Have -- I'm sorry.</p>
<p style="text-align: center;">46</p> <p>1 something that we discuss with the court later.</p> <p>2 Q. (By Ms. Maranzano) Did Senator Fraser have any</p> <p>3 role in the development of HB 218?</p> <p>4 A. No.</p> <p>5 Q. Did the Senator take a public position on HB</p> <p>6 218?</p> <p>7 A. Yes.</p> <p>8 Q. What position was that?</p> <p>9 A. In favor.</p> <p>10 Q. Did you play any role with regard to advising</p> <p>11 the Senator on that position?</p> <p>12 A. Yes.</p> <p>13 Q. Did you recommend that he support the bill?</p> <p>14 A. Yes.</p> <p>15 Q. And what was that recommendation based upon?</p> <p>16 MR. FREDERICK: Object to the extent the</p> <p>17 question calls for thoughts and mental impressions about</p> <p>18 pending legislation or asks for the substance of</p> <p>19 communications of legislators' staff, state agencies,</p> <p>20 TLC and constituents, I will instruct you not to</p> <p>21 answer. If you can answer without relying on that</p> <p>22 material, you may do so.</p> <p>23 A. I cannot answer.</p> <p>24 Q. (By Ms. Maranzano) Okay. And just so we have a</p> <p>25 clear record, you cannot answer because of the privilege</p>	<p style="text-align: center;">48</p> <p>1 A. Otherwise, I might have spoken to him once or</p> <p>2 twice on the phone.</p> <p>3 Q. Was anybody else party to the conversations</p> <p>4 that occurred in person?</p> <p>5 A. The Senator may or may not have been part of</p> <p>6 the conversations. I don't remember 2007 very well.</p> <p>7 Q. Does the Senator meet with any constituent who</p> <p>8 comes to his office if he's in the office?</p> <p>9 A. If the Senator is in the office, in a meeting</p> <p>10 or on the phone, he will visit with constituents.</p> <p>11 Q. Do you recall if he met with anybody, any</p> <p>12 constituent about HB 218?</p> <p>13 A. The same constituents that I met with on</p> <p>14 several occasions, I think the Senator met with.</p> <p>15 Q. Who was this constituent?</p> <p>16 A. Skipper Wallace.</p> <p>17 Q. Why was he particularly interested in HB 218?</p> <p>18 MR. FREDERICK: Object to the extent that</p> <p>19 calls for the substance of communications with a</p> <p>20 constituent or a legislator or staff for the thoughts</p> <p>21 and mental impressions about pending legislation; I</p> <p>22 instruct you not to answer.</p> <p>23 A. I can't answer because of privilege.</p> <p>24 Q. (By Ms. Maranzano) Did these conversations all</p> <p>25 take place in the Senator's office?</p>

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<p style="text-align: center;">49</p> <p>1 A. I don't remember, but probably, yes. By</p> <p>2 "office," you mean our general office because I have a</p> <p>3 -- so there's three rooms, so in that space?</p> <p>4 Q. In Senator Fraser's office complex --</p> <p>5 A. Yes. Okay. Right.</p> <p>6 Q. -- in the Capitol.</p> <p>7 A. Okay.</p> <p>8 Q. Okay. Thank you for clarifying that.</p> <p>9 Did either you or the Senator ask</p> <p>10 Mr. Wallace to comment, to speak about HB 218?</p> <p>11 A. No. Are we still talking about 2007?</p> <p>12 Q. We're still talking about 2007 right now.</p> <p>13 A. Thank you. No.</p> <p>14 Q. We'll get to the other bills at some point.</p> <p>15 What was the nature of your conversation</p> <p>16 with Mr. Wallace?</p> <p>17 MR. FREDERICK: I'll object and instruct</p> <p>18 you not to answer to the extent that you would reveal</p> <p>19 the substance of the conversation. You may testify as</p> <p>20 to the general subject matter only, and to the extent</p> <p>21 you can do that, you may answer. Otherwise, I instruct</p> <p>22 you not to answer the question.</p> <p>23 Q. (By Ms. Maranzano) And are you going to --</p> <p>24 A. I'm going to assert privilege.</p> <p>25 Q. All right.</p>	<p style="text-align: center;">51</p> <p>1 conversations or e-mails or other written</p> <p>2 communications?</p> <p>3 A. I would assume in 2007, most of our</p> <p>4 conversations were verbal, either on the phone or in</p> <p>5 person.</p> <p>6 Q. Did Senator Fraser have any communications with</p> <p>7 the Executive Branch about HB 218?</p> <p>8 A. I don't know.</p> <p>9 Q. Did you communicate with any interest groups or</p> <p>10 lobbyists about HB 218?</p> <p>11 A. I don't remember.</p> <p>12 Q. Did you communicate with any election officials</p> <p>13 about HB 218?</p> <p>14 A. Election officials outside of the Secretary of</p> <p>15 State's Office?</p> <p>16 Q. Yes, that's right. NonExecutive Branch</p> <p>17 election officials.</p> <p>18 A. Yes.</p> <p>19 Q. Who did you communicate with?</p> <p>20 A. Well, Skipper as County Chair. I think that I</p> <p>21 also spoke with the Republican Party of Texas.</p> <p>22 Q. How many times did you speak with the</p> <p>23 Republican Party of Texas?</p> <p>24 A. Probably once.</p> <p>25 Q. Who from the Republican Party of Texas did you</p>
<p style="text-align: center;">50</p> <p>1 MS. MARANZANO: So that I'm clear,</p> <p>2 Mr. Frederick, is your position that unsolicited</p> <p>3 conversations with constituents are also covered by</p> <p>4 privilege?</p> <p>5 MR. FREDERICK: Yes.</p> <p>6 Q. (By Ms. Maranzano) Did you or Senator Fraser</p> <p>7 communicate with any members of the Executive Branch</p> <p>8 about HB 218?</p> <p>9 A. I don't remember. I'm sorry. I'm probably</p> <p>10 sure that I talked to Ann McGeehan in the Secretary of</p> <p>11 State's Office. Other than that, I don't remember.</p> <p>12 Q. What did you talk to Ann McGeehan about?</p> <p>13 MR. FREDERICK: I'll object again, and</p> <p>14 instruct you not to answer to the extent it requires you</p> <p>15 to disclose the substance of your conversation with</p> <p>16 Ms. McGeehan about pending or proposed legislation. To</p> <p>17 the extent you can answer by giving the general subject</p> <p>18 matter, you may do so.</p> <p>19 A. Generally, I'm sure you've heard Ann. Ann was</p> <p>20 responsible for the Elections Division. Generally, we</p> <p>21 spoke of how they would implement the bill.</p> <p>22 Q. (By Ms. Maranzano) About how many times did you</p> <p>23 speak with Ms. McGeehan?</p> <p>24 A. I don't remember.</p> <p>25 Q. Do you remember whether those were</p>	<p style="text-align: center;">52</p> <p>1 speak with?</p> <p>2 A. I don't know.</p> <p>3 Q. Was that an in-person conversation or a</p> <p>4 conversation by phone, e-mail?</p> <p>5 A. Most likely, it was by phone.</p> <p>6 Q. And when was that?</p> <p>7 A. It was sometime in May, April May of 2009.</p> <p>8 2007. I'm sorry.</p> <p>9 Q. Anyone else a party to that conversation?</p> <p>10 A. No.</p> <p>11 Q. Did the Republican Party of Texas also speak to</p> <p>12 Senator Fraser about HB 218?</p> <p>13 A. No.</p> <p>14 Q. And how do you know that?</p> <p>15 A. Because the Senator doesn't speak to the</p> <p>16 Republican Party of Texas. I do.</p> <p>17 Q. What was the nature of your conversation with</p> <p>18 the Republican Party of Texas?</p> <p>19 A. I might have been asking about witnesses and</p> <p>20 testifying and just generally about the bill.</p> <p>21 Q. When you say witnesses and testifying, are you</p> <p>22 talking about for --</p> <p>23 A. For the State Affairs Committee.</p> <p>24 Q. Did you talk to the Republican Party of Texas</p> <p>25 about the substance of HB 218?</p>

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<p style="text-align: center;">53</p> <p>1 A. I don't remember. I don't think so, but I</p> <p>2 don't remember.</p> <p>3 Q. Did you have any communications or -- well, let</p> <p>4 me: Are there any other election officials that you</p> <p>5 spoke with about HB 218?</p> <p>6 A. Not that I know of.</p> <p>7 Q. Did you have any conversations with any groups</p> <p>8 representing minority voters about HB 218?</p> <p>9 A. I don't remember.</p> <p>10 Q. Did you have any conversations with the</p> <p>11 Lieutenant Governor's Office about HB 218?</p> <p>12 A. Yes.</p> <p>13 Q. How many?</p> <p>14 A. I don't remember. A dozen, two dozen.</p> <p>15 Q. Who did you have those conversations with?</p> <p>16 A. His executive staff, Julia Rathgeber. I'm</p> <p>17 trying to remember if Blaine Brunson was chief of staff</p> <p>18 then or not. I can't remember if Blaine was or not.</p> <p>19 And then whoever staffed State Affairs for Lieutenant</p> <p>20 Governor, and I don't know who was at the time, either.</p> <p>21 Q. Did you say his executive staff? Is that what</p> <p>22 you said initially?</p> <p>23 A. Yeah.</p> <p>24 Q. Does he have --</p> <p>25 A. Well -- go ahead.</p>	<p style="text-align: center;">55</p> <p>1 MR. FREDERICK: I'll give you the same</p> <p>2 instruction. I instruct you not to answer to the extent</p> <p>3 that it would reveal thoughts and mental impressions</p> <p>4 about pending legislation or the substance of</p> <p>5 conversations between you and Senator Fraser or members</p> <p>6 of the Lieutenant Governor's staff or the Lieutenant</p> <p>7 Governor. But to the extent you can identify the</p> <p>8 subject matter without revealing the substance of the</p> <p>9 conversations, you may answer the question.</p> <p>10 Q. (By Ms. Maranzano) Can you answer?</p> <p>11 A. I'm trying to decide if I can.</p> <p>12 Q. Okay.</p> <p>13 A. We generally spoke about the process of moving</p> <p>14 the bill in the Senate.</p> <p>15 Q. Did you have any discussions with anyone in the</p> <p>16 Lieutenant Governor's Office about the impact of HB 218</p> <p>17 on minority voters?</p> <p>18 A. No.</p> <p>19 Q. Did you have conversations with anybody about</p> <p>20 the impact of HB 218 on minority voters?</p> <p>21 A. I don't remember.</p> <p>22 Q. Do you keep any record of meetings that you</p> <p>23 have?</p> <p>24 A. No.</p> <p>25 Q. None?</p>
<p style="text-align: center;">54</p> <p>1 Q. I was going to ask: Does he have an executive</p> <p>2 staff that's distinguishable from legislative staff?</p> <p>3 A. No. I said executive staff because there's</p> <p>4 like three or four people that sit upstairs with him. I</p> <p>5 just classified them that way.</p> <p>6 Q. Okay. So you believe that you spoke with Julia</p> <p>7 Rathgeber potentially?</p> <p>8 A. It's Rathgeber.</p> <p>9 Q. And you said Blain Brunson possibly?</p> <p>10 A. If he was chief of staff in 2007, then, yes.</p> <p>11 Q. And potentially whoever was staffing his State</p> <p>12 Affairs issues?</p> <p>13 A. Uh-huh.</p> <p>14 Q. And when were these conversations?</p> <p>15 A. I would have to look at the record of when the</p> <p>16 bill made it to the Senate. April, May time frame of</p> <p>17 2007.</p> <p>18 Q. Were these conversations in person, over the</p> <p>19 phone, e-mail? How did you communicate with the</p> <p>20 Lieutenant Governor's Office?</p> <p>21 A. Primarily in person.</p> <p>22 Q. Were they in the Capitol offices?</p> <p>23 A. Yes.</p> <p>24 Q. What was the nature of your conversations with</p> <p>25 Lieutenant Governor's staff?</p>	<p style="text-align: center;">56</p> <p>1 A. Not from 2007.</p> <p>2 Q. How about from 2009?</p> <p>3 A. No.</p> <p>4 Q. How about from 2011?</p> <p>5 A. There might be some stuff on my calendar from</p> <p>6 2011.</p> <p>7 Q. Do you keep any record of meetings or</p> <p>8 conversations the Senator has?</p> <p>9 A. No.</p> <p>10 Q. Does the Senator keep such a record?</p> <p>11 A. Of meetings that he's had in the past, only to</p> <p>12 the extent that his calendar is stored electronically,</p> <p>13 and if that meeting made it to the calendar.</p> <p>14 Q. Who keeps that calendar in your office? Does</p> <p>15 the Senator keep his own calendar?</p> <p>16 A. The scheduler.</p> <p>17 Q. Did you turn that calendar over to counsel?</p> <p>18 A. No, I didn't. I'm sorry.</p> <p>19 Q. Do you believe that's responsive to the</p> <p>20 requests that were propounded on your office?</p> <p>21 A. I suppose not.</p> <p>22 Q. You don't believe that was?</p> <p>23 A. Well, I mean, I guess if -- I didn't search the</p> <p>24 calendar. So then the answer is no, it was not</p> <p>25 responsive.</p>

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<p style="text-align: center;">57</p> <p>1 Q. Am I understanding that you didn't turn -- you</p> <p>2 didn't search it because it was --</p> <p>3 A. I forgot to search it. And so now that you've</p> <p>4 brought it up, it's not responsive, and I can search for</p> <p>5 it.</p> <p>6 Q. Okay. Yeah. I think we're going to ask you to</p> <p>7 make that search and turn it over to counsel.</p> <p>8 MR. FREDERICK: And just for the record,</p> <p>9 I'll object to the request.</p> <p>10 MS. MARANZANO: On what grounds?</p> <p>11 MR. FREDERICK: On the grounds that it's</p> <p>12 privileged and not relevant and not reasonably</p> <p>13 calculated to lead to discovery of relevant evidence.</p> <p>14 MS. MARANZANO: Okay. But I'm asking her</p> <p>15 to turn it over to you. I mean, you can still do a</p> <p>16 privilege review.</p> <p>17 MR. FREDERICK: Fair enough. Fair enough.</p> <p>18 That's fine. I understand.</p> <p>19 MS. MARANZANO: Okay. For the record, our</p> <p>20 position is who the Senator met with on the dates is not</p> <p>21 actually privileged. The substance, we understand</p> <p>22 you're asserting privilege over. But we would ask that,</p> <p>23 at the very least, she'd turn that information over to</p> <p>24 you.</p> <p>25 MR. FREDERICK: And we understand.</p>	<p style="text-align: center;">59</p> <p>1 communications between you and the Senator or you and</p> <p>2 the Senator and the legislative staff, state agencies,</p> <p>3 TLC, and constituents. If you can answer without</p> <p>4 revealing privileged matters, you may do so.</p> <p>5 A. Generally, when you pick up a bill from the</p> <p>6 other chamber, you assume most of the work was done in</p> <p>7 the other chamber.</p> <p>8 Q. (By Ms. Maranzano) Did you feel you had any</p> <p>9 obligation to analyze the bill prior to recommending to</p> <p>10 your boss that he take a position on it?</p> <p>11 MR. FREDERICK: I think I'll make the same</p> <p>12 instruction: Don't reveal thoughts, mental impressions,</p> <p>13 or communications that are privileged. But if you can</p> <p>14 answer without doing, so you may answer the question.</p> <p>15 A. I did review the bill prior to making a</p> <p>16 recommendation.</p> <p>17 Q. (By Ms. Maranzano) And did you feel that you</p> <p>18 needed to do anything in addition to reviewing the bill</p> <p>19 prior to making a recommendation to the Senator?</p> <p>20 A. No.</p> <p>21 Q. Were you aware that if this bill had been</p> <p>22 passed, it would have been subject to Section 5 of the</p> <p>23 Voting Rights Act?</p> <p>24 A. Yes.</p> <p>25 Q. And did you believe that includes any</p>
<p style="text-align: center;">58</p> <p>1 MS. MARANZANO: Yeah.</p> <p>2 Q. (By Ms. Maranzano) Did Senator -- yes.</p> <p>3 A. Just so we can be clear, the Senator meets with</p> <p>4 people unexpectedly, and it doesn't make it to his</p> <p>5 calendar.</p> <p>6 Q. Okay.</p> <p>7 A. So there may have been meetings that have took</p> <p>8 place that will not reflected on his calendar.</p> <p>9 Q. Okay. And are there any documents that reflect</p> <p>10 those meetings?</p> <p>11 A. Again, the meetings that just took place</p> <p>12 unexpectedly, no, ma'am.</p> <p>13 Q. Okay. Did you review any studies that would be</p> <p>14 related to HB 218?</p> <p>15 A. No.</p> <p>16 Q. Did anyone in your office?</p> <p>17 A. No.</p> <p>18 Q. Did the Senator -- did you or the Senator make</p> <p>19 any attempt to determine who among registered voters did</p> <p>20 not possess one of the forms of identification listed in</p> <p>21 HB 218?</p> <p>22 A. No.</p> <p>23 Q. Why not?</p> <p>24 MR. FREDERICK: Object to the extent it</p> <p>25 calls for thoughts, mental impressions, or</p>	<p style="text-align: center;">60</p> <p>1 obligation to take any additional steps before</p> <p>2 recommending a position to Senator Fraser?</p> <p>3 A. No.</p> <p>4 Q. Are you aware of whether the House analyzed the</p> <p>5 impact of HB 218?</p> <p>6 A. I'm not aware.</p> <p>7 Q. Do you know whether there was any attempt in</p> <p>8 the House to analyze whether HB 218 would have a</p> <p>9 disproportionate impact on minority voters?</p> <p>10 A. I'm not aware.</p> <p>11 Q. Who would know that information?</p> <p>12 A. The House author.</p> <p>13 Q. And that was?</p> <p>14 A. Representative Betty Brown.</p> <p>15 Q. What was the purpose of HB 218?</p> <p>16 MR. FREDERICK: Object on grounds of</p> <p>17 privilege. To the extent the question calls for</p> <p>18 thoughts or mental impressions of you, Senator Fraser,</p> <p>19 or communications that you or the Senator have had with</p> <p>20 other legislators, staff, agencies, TLC, or</p> <p>21 constituents, I instruct you not to answer. But to the</p> <p>22 extent that you are able to identify the purpose of the</p> <p>23 bill without relying on privileged matters, you are free</p> <p>24 to answer the question.</p> <p>25 A. I think the record from the State Affairs</p>

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<p style="text-align: center;">61</p> <p>1 Committee hearing on House Bill 218 will show that the</p> <p>2 Senator said the intent was to stop in-person voter</p> <p>3 fraud.</p> <p>4 Q. (By Ms. Maranzano) And how does this bill stop</p> <p>5 in-person voter fraud?</p> <p>6 MR. FREDERICK: Object to the extent it</p> <p>7 calls for speculation and object to the extent it calls</p> <p>8 for thoughts, mental impressions, or privileged</p> <p>9 communications. But to the extent you can answer</p> <p>10 without relying on privileged matters, you may do so.</p> <p>11 A. What was the question?</p> <p>12 Q. (By Ms. Maranzano) How does HB 218 solve</p> <p>13 in-person -- or help with in-person voter fraud? Is</p> <p>14 that what -- what did you say the purpose of the bill</p> <p>15 is? Why don't you repeat that?</p> <p>16 A. If you look at the record from the State</p> <p>17 Affairs Committee hearing, the Senator said that the</p> <p>18 intent of a voter ID bill was to stop in-person voter</p> <p>19 fraud.</p> <p>20 Q. And so my question is: How does this bill do</p> <p>21 that?</p> <p>22 MR. FREDERICK: Same instruction.</p> <p>23 A. I'll assert privilege.</p> <p>24 Q. (By Ms. Maranzano) Is that the only purpose of</p> <p>25 HB 218?</p>	<p style="text-align: center;">63</p> <p>1 and the bill gets voted out of committee, and Senator</p> <p>2 places the bill on the intent calendar.</p> <p>3 Q. Can I stop for a second.</p> <p>4 A. Uh-huh.</p> <p>5 Q. I'm asking you particularly about HB 218, not</p> <p>6 about a general description.</p> <p>7 A. House Bill 218 was voted out of the House, and</p> <p>8 I can't speak to how it got out of the House. You need</p> <p>9 to go back and talk to Betty Brown about that. House</p> <p>10 Bill 218 showed up in the Senate, was read, Lieutenant</p> <p>11 Governor referred it to the Senate State Affairs</p> <p>12 Committee. The Senate State Affairs Committee had the</p> <p>13 bill. Senator Fraser notified the Senate State Affairs</p> <p>14 Committee that he wanted to sponsor HB 218 and requested</p> <p>15 a hearing. The bill was set for a hearing by the</p> <p>16 Chairman of Senate State Affairs. The bill had a</p> <p>17 hearing. I don't remember if this bill sat in State</p> <p>18 Affairs or if it was voted out the same day it was</p> <p>19 heard. You'd have to look at the record. But the bill</p> <p>20 was voted out of committee.</p> <p>21 And Senator Fraser decided to move forward</p> <p>22 with the bill, and so he notified, via the intent</p> <p>23 calendar notification process, the other senators that</p> <p>24 he wanted to hear the bill, and we had the bill in</p> <p>25 Intent for quite a while.</p>
<p style="text-align: center;">62</p> <p>1 MR. FREDERICK: Same objection and</p> <p>2 instruction. Don't reveal thoughts, mental impressions</p> <p>3 or communications with legislative staff, agencies, TLC</p> <p>4 or constituents. If you are able to answer without</p> <p>5 doing so, you may.</p> <p>6 A. Again, according to the record, if you look at</p> <p>7 what Senator Fraser said in the State Affairs Committee</p> <p>8 hearing, his only intent is to stop in-person voter</p> <p>9 fraud.</p> <p>10 Q. (By Ms. Maranzano) Can you describe to me the</p> <p>11 procedural history of after HB 218 was introduced, what</p> <p>12 happened?</p> <p>13 MR. FREDERICK: I'll object on grounds of</p> <p>14 vagueness, but you can answer if you can.</p> <p>15 A. I cannot --</p> <p>16 Q. (By Ms. Maranzano) I'm looking for a general</p> <p>17 summary of what happened with the bill.</p> <p>18 A. I mean, the House process is the House</p> <p>19 process. The bill gets filed, gets sent to committee,</p> <p>20 gets voted out of committee, it goes to calendars, goes</p> <p>21 the Floor, gets passed. In the Senate, it gets -- comes</p> <p>22 to over to the Senate, then just like every bill,</p> <p>23 Lieutenant Governor reviews it, refers it to a</p> <p>24 committee, committee chairman decides to give it a</p> <p>25 hearing or not, and the bill has a hearing in committee,</p>	<p style="text-align: center;">64</p> <p>1 This particular bill, we tried to move one</p> <p>2 day, when we thought we had the necessary votes, and we</p> <p>3 were not successful, and the bill died.</p> <p>4 Q. Okay. So I'm going to ask you a couple of</p> <p>5 questions about that process as you've described it.</p> <p>6 I believe that you testified that the</p> <p>7 Lieutenant Governor reviews a bill, after it gets voted</p> <p>8 out of the House, and then refers it to committee?</p> <p>9 A. Yes, ma'am.</p> <p>10 Q. Does every bill that gets voted out of the</p> <p>11 House get referred to some Senate committee?</p> <p>12 A. Yes, ma'am.</p> <p>13 Q. And does the Lieutenant Governor solely -- is</p> <p>14 that decision of which committee to refer it to solely</p> <p>15 that of the Lieutenant Governor's?</p> <p>16 A. Based on the current Senate rules, yes.</p> <p>17 Q. And you mean the 2011 rules?</p> <p>18 A. 2007, but even now in 2011, yes, ma'am.</p> <p>19 Q. Okay. And you said that the Senator, Senator</p> <p>20 Fraser notified the committee on State Affairs that he</p> <p>21 wanted to sponsor this bill?</p> <p>22 A. Yes, ma'am.</p> <p>23 Q. Why did he do that?</p> <p>24 MR. FREDERICK: Well, object to the extent</p> <p>25 it calls for the Senator's thoughts, mental impressions,</p>

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<p style="text-align: center;">65</p> <p>1 or any communications that you had with him, and I will</p> <p>2 instruct you not to answer.</p> <p>3 A. I'll assert privilege.</p> <p>4 MR. FREDERICK: Okay.</p> <p>5 Jennifer, sometime soon, if we could take</p> <p>6 a quick break.</p> <p>7 MS. MARANZANO: Yeah, just give me a</p> <p>8 couple of minutes.</p> <p>9 MR. FREDERICK: Sure. Sure.</p> <p>10 Q. (By Ms. Maranzano) And you said the committee</p> <p>11 held hearings on HB 218? The Committee on State Affairs</p> <p>12 held hearings on HB 218?</p> <p>13 A. Held a hearing. I don't think they had</p> <p>14 multiple. I think they had one.</p> <p>15 Q. Who invited the witnesses to testify at that</p> <p>16 committee hearing?</p> <p>17 MR. FREDERICK: I'm going to object to</p> <p>18 that, and to the extent it calls for communications that</p> <p>19 any legislator had or that you or Senator Fraser had</p> <p>20 with legislators, staff, agencies, TLC, constituents, or</p> <p>21 potential witnesses, I'll instruct you not to answer.</p> <p>22 To the extent you can answer without revealing the</p> <p>23 substance of conversations, you can do so.</p> <p>24 A. I don't remember that there was an invited</p> <p>25 panel. It was just the process of laying out a bill by</p>	<p style="text-align: center;">67</p> <p>1 Q. What were those concerns?</p> <p>2 A. I cannot -- I cannot speak to what they</p> <p>3 actually said.</p> <p>4 Q. Did anybody raise any concerns about the impact</p> <p>5 HB 218 might have on minority voters?</p> <p>6 MR. FREDERICK: Well, object and instruct</p> <p>7 you not answer to the extent that the question calls for</p> <p>8 communications that you had or Senator Fraser had with</p> <p>9 legislators or legislative staff, agencies, TLC, or</p> <p>10 constituents. But to the extent you can answer without</p> <p>11 revealing.</p> <p>12 A. I mean, the record is there. The hearing was</p> <p>13 videotaped. I think that you could watch it. I don't</p> <p>14 remember specifically.</p> <p>15 Q. (By Ms. Maranzano) Okay. Did the bill change</p> <p>16 at all in committee?</p> <p>17 A. I don't think so, but -- yeah, I don't think</p> <p>18 so. I don't remember. I mean, we might have made minor</p> <p>19 tweaks, but I don't think so.</p> <p>20 Q. Okay.</p> <p>21 MS. MARANZANO: Let's take a five-minute</p> <p>22 break.</p> <p>23 (Recess from 11:11 a.m. to 11:32 a.m.)</p> <p>24 Q. (By Ms. Maranzano) Ms. McCoy, before the break,</p> <p>25 we were talking about HB 218. Who brought HB 218 to the</p>
<p style="text-align: center;">66</p> <p>1 the Senator and then the public testifying.</p> <p>2 I earlier said that I think I talked to</p> <p>3 the Republican Party of Texas about coming and</p> <p>4 testifying, so I may have called a few people that I</p> <p>5 thought would be helpful to the passage of the bill</p> <p>6 besides the Republican Party of Texas. I'm not sure.</p> <p>7 And then the one constituent that we talked to quite a</p> <p>8 bit about this bill. Other than that, I don't think</p> <p>9 there was invited to testimony.</p> <p>10 Q. (By Ms. Maranzano) So the one constituent was</p> <p>11 Skipper Wallace?</p> <p>12 A. Yes.</p> <p>13 Q. And are you saying that you may have invited</p> <p>14 him to testify as well?</p> <p>15 A. I think I didn't invite him to testify. I</p> <p>16 think I was more making sure he knew that the bill had</p> <p>17 been scheduled for hearing.</p> <p>18 Q. Do you remember about how many members of the</p> <p>19 public testified at that hearing?</p> <p>20 A. I do not.</p> <p>21 Q. Can you approximate?</p> <p>22 A. I cannot. It's in the record, however.</p> <p>23 Q. Okay. Did anybody raise any concerns about 218</p> <p>24 during this committee hearing?</p> <p>25 A. My recollection is yes.</p>	<p style="text-align: center;">68</p> <p>1 Floor of the Senate?</p> <p>2 A. Senator Fraser.</p> <p>3 Q. Did anyone ask the Senator to bring it to the</p> <p>4 Floor?</p> <p>5 MR. FREDERICK: Object to the extent that</p> <p>6 calls for communications with other legislative staff in</p> <p>7 this case the legislators or staff members that's not on</p> <p>8 the public record, I will instruct you not to answer.</p> <p>9 If you can answer without revealing that, you may</p> <p>10 answer.</p> <p>11 A. I'll assert privilege.</p> <p>12 Q. (By Ms. Maranzano) Why was Senator Fraser</p> <p>13 playing a leadership role in HB 218?</p> <p>14 MR. FREDERICK: I'll object to the extent</p> <p>15 that calls for thoughts or mental impressions of Senator</p> <p>16 Fraser about HB 218 or communications with other</p> <p>17 legislators, staff, or state agencies. If you can</p> <p>18 answer without revealing subjective mental impressions</p> <p>19 or you may do so.</p> <p>20 A. I'll assert privilege.</p> <p>21 Q. (By Ms. Maranzano) When HB 218 was brought at</p> <p>22 the time Floor of the Senate, what was your role?</p> <p>23 A. My role with House Bill 218 at that point was</p> <p>24 to help the Senator with his talking points, and that's</p> <p>25 it.</p>

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<p style="text-align: center;">69</p> <p>1 Q. Did you draft his talking points?</p> <p>2 A. Yes.</p> <p>3 Q. Did you save those talking points?</p> <p>4 A. Yes.</p> <p>5 Q. Do you still have them?</p> <p>6 A. Yes.</p> <p>7 Q. Were those turned over to your counsel?</p> <p>8 A. Yes.</p> <p>9 Q. Did you do any research prior to drafting those</p> <p>10 talking points?</p> <p>11 A. I read the bill book that Representative Brown</p> <p>12 provided to us.</p> <p>13 Q. And what does the bill book include?</p> <p>14 A. I don't remember what the bill book included</p> <p>15 specifically. Typically, a bill book has copies of the</p> <p>16 legislation, copies of the bill analysis, copies of the</p> <p>17 fiscal note, and occasionally, supporting documents.</p> <p>18 This bill book had all of those things. I do not</p> <p>19 remember what those supporting documents were.</p> <p>20 Q. Did you do any additional research other than</p> <p>21 read the bill book?</p> <p>22 A. No.</p> <p>23 Q. Why not?</p> <p>24 MR. FREDERICK: I'll object. I believe</p> <p>25 that question calls for your mental impressions about</p>	<p style="text-align: center;">71</p> <p>1 218?</p> <p>2 MR. FREDERICK: I'll object to the extent</p> <p>3 it calls for thoughts or mental impressions of any</p> <p>4 legislators or staff of pending legislation or</p> <p>5 communications with other legislators of Senator Fraser</p> <p>6 or staff. But if you can answer without revealing</p> <p>7 privileged matters, you may do so.</p> <p>8 A. After the bill moved, Senator Uresti voted no.</p> <p>9 Q. Can you --</p> <p>10 A. So I did not know how he was going to vote</p> <p>11 prior to the bill moving. After he voted, he voted</p> <p>12 no. After we voted, he voted no.</p> <p>13 Q. Well, why did you bring the bill to the Floor</p> <p>14 when he was absent?</p> <p>15 MR. FREDERICK: Object to the extent the</p> <p>16 question calls for thoughts and mental impressions about</p> <p>17 pending legislation or communications indications that</p> <p>18 are privileged. I instruct you not to answer. If you</p> <p>19 can answer without revealing privileged matters, you may</p> <p>20 do so.</p> <p>21 A. I'll assert privilege.</p> <p>22 Q. (By Ms. Maranzano) Do you think it's important</p> <p>23 to give every Senator a chance to weigh in on a bill</p> <p>24 like HB 218?</p> <p>25 MR. FREDERICK: I'll object as</p>
<p style="text-align: center;">70</p> <p>1 pending legislation. I'll instruct not to answer.</p> <p>2 Q. (By Ms. Maranzano) Are you going to follow your</p> <p>3 counsel's instruction not to answer the question?</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. Okay. When HB 218 was brought to the Floor of</p> <p>6 the Senate, did -- or did HB 218 require the support of</p> <p>7 two-thirds of the senators to bring bill to the Floor</p> <p>8 for a vote?</p> <p>9 A. Yes.</p> <p>10 Q. When Senator Fraser brought HB 218 to the</p> <p>11 Floor, how many senators were present at that time?</p> <p>12 A. I don't recall exactly. Either 29 or 30.</p> <p>13 Q. I believe you testified earlier that the</p> <p>14 Senator brought the bill to the Floor when he -- he</p> <p>15 tried to move this bill on a day when you thought it</p> <p>16 would pass?</p> <p>17 A. Yes, ma'am.</p> <p>18 Q. What did you mean by that?</p> <p>19 A. We knew that a particular Senator was absent.</p> <p>20 Q. Which Senator was absent?</p> <p>21 A. Senator Uresti.</p> <p>22 Q. Why was Senator Uresti absent?</p> <p>23 A. If you look at the record from that day, I</p> <p>24 think he was excused because he was sick.</p> <p>25 Q. Did you know Senator Uresti's position on HB</p>	<p style="text-align: center;">72</p> <p>1 argumentative, but you may answer if you can.</p> <p>2 Q. (By Ms. Maranzano) Are you able to answer that,</p> <p>3 Ms. McCoy?</p> <p>4 A. No.</p> <p>5 Q. No, you're not able to answer or --</p> <p>6 A. I'm sorry.</p> <p>7 Q. -- no, you don't think it's important to --</p> <p>8 A. No, I don't think it's important that every</p> <p>9 Senator vote on every specific piece of legislation,</p> <p>10 including House Bill 218.</p> <p>11 Q. Do you know Senator's Uresti's ethnicity?</p> <p>12 A. Yes.</p> <p>13 Q. What ethnicity is he?</p> <p>14 A. He's Hispanic.</p> <p>15 Q. Do you know anything about the district that he</p> <p>16 represents?</p> <p>17 A. Not specifically.</p> <p>18 Q. Do you know if he made any comments about</p> <p>19 HB 218 and the impact it would have on his constituents?</p> <p>20 A. I do not know.</p> <p>21 Q. Would that impact your thoughts on whether it</p> <p>22 was important to give him an opportunity to vote on</p> <p>23 HB 218?</p> <p>24 MR. FREDERICK: Objection, calls for</p> <p>25 speculation.</p>

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<p style="text-align: center;">73</p> <p>1 Q. (By Ms. Maranzano) You can ahead and answer.</p> <p>2 A. I'm sorry. You need to ask the question</p> <p>3 again. I don't know what you're asking me.</p> <p>4 Q. I'm asking if you thought that Senator Uresti</p> <p>5 believed that HB 218 would impact his constituents,</p> <p>6 would you think it was important that he be given an</p> <p>7 opportunity to take a vote on that bill?</p> <p>8 MR. FREDERICK: Same objection. You can</p> <p>9 answer.</p> <p>10 A. I think, again, generally, every bill impacts</p> <p>11 every Senators' constituents. And generally, Senators</p> <p>12 should on the Floor to vote, but not -- we don't have a</p> <p>13 31 -- we don't always 31 Senators on the Floor to vote.</p> <p>14 And so with Senator Uresti, I can't speak to Senator</p> <p>15 Uresti's constituents what they think is important or</p> <p>16 not important for him to vote on.</p> <p>17 Q. (By Ms. Maranzano) But am I understanding you</p> <p>18 correctly that your position is, you don't think every</p> <p>19 Senator needs to vote on every bill, including HB 218?</p> <p>20 A. That's correct.</p> <p>21 Q. And did you say that the bill -- well, after</p> <p>22 the first vote was taken on HB 218, was there</p> <p>23 verification of the vote that was taken?</p> <p>24 A. I think that's what it's called, yes. I think</p> <p>25 of we -- they voted again. I don't know if it was a</p>	<p style="text-align: center;">75</p> <p>1 the members present.</p> <p>2 Q. What do you think the purpose of that</p> <p>3 requirement is?</p> <p>4 A. I can't speak to the purpose. It's just the</p> <p>5 way the Senate has done business.</p> <p>6 Q. But as somebody who has worked there since</p> <p>7 1992, do you have any thoughts on what you think the</p> <p>8 purpose of that is?</p> <p>9 A. General consensus on bills.</p> <p>10 Q. Are most bills brought to the Floor by getting</p> <p>11 two-thirds majority support?</p> <p>12 A. Yes.</p> <p>13 Q. After HB 218 failed to get two-thirds majority</p> <p>14 support, did anything further happen to that bill?</p> <p>15 A. No.</p> <p>16 Q. Who were the main supporters of HB 218?</p> <p>17 MR. FREDERICK: I'll object to the extent</p> <p>18 that it calls for communications that you or Senator</p> <p>19 Fraser might have had with legislators, staff, agencies,</p> <p>20 or constituents or thoughts and mental impressions. But</p> <p>21 if you can answer without that, I think you're free to</p> <p>22 answer.</p> <p>23 A. Well, I think the record will show, if you look</p> <p>24 at the vote in the Senate, you're talking about who the</p> <p>25 supporters were in the Senate; Republican Senators</p>
<p style="text-align: center;">74</p> <p>1 verification or if they just chose to vote again. I'm</p> <p>2 not really sure how that worked. But there was a second</p> <p>3 vote.</p> <p>4 Q. And did you say Senator Uresti arrived for that</p> <p>5 vote?</p> <p>6 A. He did.</p> <p>7 Q. And what happened to HB 218?</p> <p>8 A. It failed to suspend the regular order of</p> <p>9 business rule.</p> <p>10 Q. Was that because it did not have a two-thirds</p> <p>11 majority --</p> <p>12 A. That's correct.</p> <p>13 Q. Two-thirds majority support?</p> <p>14 A. That's correct.</p> <p>15 Q. What is the purpose of the two-thirds rule?</p> <p>16 A. There is not a rule that's the two-thirds</p> <p>17 rule. The rule is the regular order of business rule,</p> <p>18 and that rule says that as a bill comes out of the</p> <p>19 calendar, it's placed on the regular order of business,</p> <p>20 and you're supposed to vote in that order. So there is</p> <p>21 no two-thirds rule.</p> <p>22 Q. So to vote on a bill out of order, does that</p> <p>23 require two-thirds majority support?</p> <p>24 A. You have to suspend the regular order of</p> <p>25 business rule, and that requires a two-thirds vote of</p>	<p style="text-align: center;">76</p> <p>1 supported it, Democrat Senators did not.</p> <p>2 Q. (By Ms. Maranzano) How about, were there any --</p> <p>3 would you consider anybody from the Executive Branch to</p> <p>4 be a main supporter of HB 218?</p> <p>5 MR. FREDERICK: Same objection. To the</p> <p>6 extent it calls for communications between you or</p> <p>7 Senator Fraser and a member the Executive Branch or</p> <p>8 their thoughts or mental impressions, I instruct you not</p> <p>9 to answer. If you can answer without revealing that,</p> <p>10 you can answer.</p> <p>11 A. I'll assert purchase.</p> <p>12 Q. (By Ms. Maranzano) Was there any outside groups</p> <p>13 or advocacy groups that you would consider to be in the</p> <p>14 group of the main supporters of HB 218?</p> <p>15 MR. FREDERICK: Again, I'll instruct you</p> <p>16 not to answer and object on privilege, to the extent</p> <p>17 that it would require you to reveal the substance of any</p> <p>18 conversation. But to the extent it's just seeking</p> <p>19 identity, then you may identify.</p> <p>20 A. I honestly don't remember who testified for and</p> <p>21 against the bill. Republican Party, I think, was for</p> <p>22 it.</p> <p>23 Q. (By Ms. Maranzano) And did you say -- you said</p> <p>24 most of the legislators who supported the bill were in</p> <p>25 the Republican Party?</p>

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<p style="text-align: center;">77</p> <p>1 A. Yes, ma'am.</p> <p>2 Q. Do you believe any part of the purpose of</p> <p>3 HB 218 was partisan?</p> <p>4 MR. FREDERICK: I'll object and assert</p> <p>5 privilege to the extent that the question seeks thoughts</p> <p>6 or mental impressions about pending legislation or the</p> <p>7 substance of communications with legislators, staff,</p> <p>8 agencies, TLC, or constituents. But, I mean, to the</p> <p>9 extent that you can identify -- to the extent you're</p> <p>10 able to identify a purpose without relying on those</p> <p>11 matters, you're free to answer the question.</p> <p>12 A. I think the purpose of the bill, from Senator</p> <p>13 Fraser and our office's perspective, was to stop</p> <p>14 in-person voter fraud. It wasn't partisan.</p> <p>15 Q. (By Ms. Maranzano) Who were the main opponents</p> <p>16 to HB 218?</p> <p>17 A. I don't remember.</p> <p>18 Q. You don't remember any of them?</p> <p>19 A. I don't.</p> <p>20 Q. Do you believe that HB 218 would have had a</p> <p>21 discriminatory impact on minority voters?</p> <p>22 MR. FREDERICK: I'll object to the extent</p> <p>23 it calls for your thoughts and mental impressions about</p> <p>24 pending legislation and communications, and based on</p> <p>25 that, I will instruct you not to answer the question.</p>	<p style="text-align: center;">79</p> <p>1 communications relating to specific legislation. To the</p> <p>2 extent you can answer without relying on privileged</p> <p>3 matters, you may do so.</p> <p>4 A. I assert privilege.</p> <p>5 Q. (By Ms. Maranzano) Was Senator Fraser involved</p> <p>6 in a photo identification bill in 2009?</p> <p>7 A. Yes, ma'am.</p> <p>8 (Exhibit 29 marked for identification.)</p> <p>9 Q. (By Ms. Maranzano) Ms. McCoy, I'm showing you</p> <p>10 what has been marked as Deposition Exhibit 29. Do you</p> <p>11 recognize this?</p> <p>12 A. Yes, ma'am.</p> <p>13 Q. And what is this?</p> <p>14 A. I think it's the filed version of Senate Bill</p> <p>15 362.</p> <p>16 Q. Can you take a look at it and tell me what</p> <p>17 forms of identification would be allowed in this bill?</p> <p>18 A. Section 10 of the bill shows six different</p> <p>19 forms of photo ID that would be acceptable, including a</p> <p>20 driver's license or ID card, a military card, a citizen</p> <p>21 certificate that has a photograph, a passport, a</p> <p>22 concealed handgun license, and a valid ID card from a</p> <p>23 federal or local government, or two forms of nonphoto</p> <p>24 ID, including registration cards, utility bills,</p> <p>25 official mail, birth certificates, marriage license or</p>
<p style="text-align: center;">78</p> <p>1 A. I'll assert privilege.</p> <p>2 Q. (By Ms. Maranzano) Are you familiar with</p> <p>3 Section 2 of the Voting Rights Act?</p> <p>4 A. No.</p> <p>5 Q. Not at all?</p> <p>6 A. Not at all.</p> <p>7 Q. Would it surprise you if I told you that</p> <p>8 Section 2 includes an antidiscrimination provision that</p> <p>9 applies to all 50 states?</p> <p>10 A. I don't know anything about Section 2, so...</p> <p>11 Q. So you've never made any effort to ensure that</p> <p>12 legislation you worked on complied with Section 2 of the</p> <p>13 Voting Rights Act?</p> <p>14 MR. FREDERICK: Objection, argumentative.</p> <p>15 Objection, assumes facts not in evidence.</p> <p>16 A. I don't know anything about Section 2.</p> <p>17 Q. (By Ms. Maranzano) Do you think a federal law</p> <p>18 is required to make sure a piece of legislation doesn't</p> <p>19 discriminate against minorities?</p> <p>20 A. No.</p> <p>21 Q. Do you make any attempts to make sure that</p> <p>22 legislation you work on doesn't discriminate against</p> <p>23 minorities?</p> <p>24 MR. FREDERICK: I object, to the extent it</p> <p>25 calls for you to reveal thoughts, mental impressions, or</p>	<p style="text-align: center;">80</p> <p>1 divorce decrees, court records.</p> <p>2 Q. Is -- I think I didn't ask you this question.</p> <p>3 Is this the bill that Senator Fraser introduced in 2009?</p> <p>4 A. I think I said it was the filed version, yes,</p> <p>5 ma'am.</p> <p>6 Q. Okay.</p> <p>7 A. I don't know that to be exact, but based on the</p> <p>8 title of the bill, it looks like it's the filed version.</p> <p>9 Q. Okay. And this bill would allow for a voter to</p> <p>10 show one form of photo identification or two forms of</p> <p>11 nonphoto identification?</p> <p>12 A. That's correct.</p> <p>13 Q. I believe you testified earlier that two forms</p> <p>14 of nonphoto identification would verify a voter's</p> <p>15 identity in both instances?</p> <p>16 A. Uh-huh.</p> <p>17 Q. What are the instances --</p> <p>18 MR. DUNN: Was that a yes?</p> <p>19 THE WITNESS: Yes.</p> <p>20 Q. (By Ms. Maranzano) What are the instances that</p> <p>21 a nonphoto ID would not verify a voter's identity?</p> <p>22 MR. FREDERICK: Objection to the extent it</p> <p>23 calls for speculation, but you can answer.</p> <p>24 A. Again, if someone is trying to cheat the</p> <p>25 system, they can -- nonphoto IDs can be reproduced and</p>

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<p style="text-align: center;">81</p> <p>1 manipulated.</p> <p>2 Q. (By Ms. Maranzano) Can photo IDs be reproduced</p> <p>3 and manipulated?</p> <p>4 MR. FREDERICK: Objection to the extent it</p> <p>5 calls for speculation, but you can answer if you know</p> <p>6 A. Some can.</p> <p>7 Q. (By Ms. Maranzano) Can you tell me what your</p> <p>8 involvement was in the development of SB 362?</p> <p>9 A. Senate Bill 362 as filed was the legislation</p> <p>10 that the House sent to us from House Bill 218. So</p> <p>11 Exhibit 28 is not the bill the Senate was debating,</p> <p>12 because this is the filed version. So after the House</p> <p>13 manipulated it a while, this is the language they sent</p> <p>14 us. So we refiled the bill that had passed the House</p> <p>15 from 2007. We refiled it in 2009.</p> <p>16 Q. Why did Senator Fraser decide to file the bill</p> <p>17 in the Senate in 2009?</p> <p>18 MR. FREDERICK: Object. That question</p> <p>19 seeks thoughts or mental impressions of Senator Fraser.</p> <p>20 I'll instruct you not to answer on the basis of</p> <p>21 privilege.</p> <p>22 A. I'll assert privilege.</p> <p>23 Q. (By Ms. Maranzano) So you filed -- I'm sorry.</p> <p>24 Senator Fraser filed a bill that was -- that had been</p> <p>25 previously filed in the House; is that correct? And SB</p>	<p style="text-align: center;">83</p> <p>1 research reports, and compiled that information for the</p> <p>2 Senator.</p> <p>3 Q. (By Ms. Maranzano) What poll data did you</p> <p>4 gather?</p> <p>5 MR. FREDERICK: Object. That calls for</p> <p>6 you to reveal your thoughts or mental impressions. I</p> <p>7 will instruct you not to answer on the basis of</p> <p>8 privilege.</p> <p>9 Q. (By Ms. Maranzano) Are you following your</p> <p>10 counsel's instruction not to answer that question?</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. What research reports did you gather?</p> <p>13 MR. FREDERICK: Object on the basis that</p> <p>14 calls for thoughts or mental impressions. I'm going to</p> <p>15 instruct you not to answer on the basis of privilege.</p> <p>16 A. I'll assert privilege, yes, ma'am.</p> <p>17 Q. (By Ms. Maranzano) All right. Why did you</p> <p>18 decide to look at poll data when you were doing research</p> <p>19 on this question?</p> <p>20 MR. FREDERICK: I object. That answer</p> <p>21 calls for your thoughts or mental impression on pending</p> <p>22 legislation. I instruct you not to answer on the basis</p> <p>23 of privilege.</p> <p>24 A. I'll assert privilege.</p> <p>25 Q. (By Ms. Maranzano) Did the Senator cite any of</p>
<p style="text-align: center;">82</p> <p>1 362 was a version of a previously-filed bill in the</p> <p>2 House?</p> <p>3 A. Senate Bill 362 was the version of House Bill</p> <p>4 218 that the House sent us, the engrossed version of</p> <p>5 House Bill 218 from 2007.</p> <p>6 Q. Okay. And you did not make any changes to the</p> <p>7 bill prior to filing SB 362?</p> <p>8 A. I think Senate Bill 362, as filed, was exactly</p> <p>9 the language that was House Bill 218 as it came out of</p> <p>10 the Senate committee on State Affairs.</p> <p>11 Q. Did you do any -- we've talked a little bit</p> <p>12 about what you did in relation to House Bill 218. Did</p> <p>13 you take any additional steps, in terms of developing or</p> <p>14 working on SB 362, with regards to any research you did</p> <p>15 any studies you looked at?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. And what did you do?</p> <p>18 MR. FREDERICK: I'll object to the extent</p> <p>19 this calls for you to reveal thoughts or mental</p> <p>20 impressions, any communications with legislators, staff,</p> <p>21 agencies, TLC, or constituents, I instruct you not to</p> <p>22 reveal the substance of those communications or your</p> <p>23 thoughts or mental impressions. If you can answer</p> <p>24 without revealing those matters, you may do so.</p> <p>25 A. I gathered more poll data. I gathered more</p>	<p style="text-align: center;">84</p> <p>1 the poll data or reports that you had gathered on the</p> <p>2 public record?</p> <p>3 A. Yes.</p> <p>4 Q. Which polls or reports did he cite?</p> <p>5 A. In 2009, he cited Rasmussen Poll on the</p> <p>6 record. He cited the Carter-Baker Commission report on</p> <p>7 the record. And I don't know that I can recall more</p> <p>8 than those two on the record.</p> <p>9 Q. Were there any polls that you had found in</p> <p>10 doing your research that the Senator did not cite on the</p> <p>11 public record?</p> <p>12 MR. FREDERICK: I object on the basis that</p> <p>13 that calls for your thoughts or mental impression,</p> <p>14 communications. I instruct you not to answer on the</p> <p>15 basis of privilege, except to the extent that you can</p> <p>16 answer yes or no if there are such reports.</p> <p>17 A. No.</p> <p>18 Q. (By Ms. Maranzano) Were there any studies that</p> <p>19 you had found or other research you had found that the</p> <p>20 Senator did not cite on the public record?</p> <p>21 MR. FREDERICK: Same objection, same</p> <p>22 instruction. You may answer yes or no.</p> <p>23 A. Yes.</p> <p>24 Q. (By Ms. Maranzano) And what were those?</p> <p>25 MR. FREDERICK: I object on the basis that</p>

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<p style="text-align: center;">85</p> <p>1 seeks thoughts or mental impressions and communications</p> <p>2 that are privileged. I instruct you not to answer on</p> <p>3 the basis of privilege.</p> <p>4 A. But I can answer because I don't remember the</p> <p>5 names of those reports.</p> <p>6 Q. (By Ms. Maranzano) Do you remember how many</p> <p>7 there were?</p> <p>8 A. Four or five. Three, four, five, something</p> <p>9 like that.</p> <p>10 Q. Do you remember what they were about?</p> <p>11 A. Voter identification.</p> <p>12 Q. Anything more specific than voter</p> <p>13 identification?</p> <p>14 MR. FREDERICK: I'll object. That seeks</p> <p>15 thoughts and mental impressions, communications. I</p> <p>16 object and instruct you not to answer on the basis of</p> <p>17 privilege.</p> <p>18 A. I'll assert privilege.</p> <p>19 Q. (By Ms. Maranzano) When you were working on SB</p> <p>20 362, did you study any other state's identification</p> <p>21 requirements?</p> <p>22 MR. FREDERICK: I'll object to the extent</p> <p>23 that calls for your thoughts or mental impressions or</p> <p>24 communications with legislators, staff, agencies, TLC,</p> <p>25 or constituents, instruct you not to answer on the basis</p>	<p style="text-align: center;">87</p> <p>1 months pregnant with twins when we were debating Senate</p> <p>2 Bill 362, so I don't remember a lot.</p> <p>3 I probably spoke to a dozen Senators about</p> <p>4 Senate Bill 362. And as the bill moved through the</p> <p>5 Senate, Senator Williams, Senator Ellis, Senator West,</p> <p>6 Senator Duncan, Senator Van de Putte, Senator Whitmire.</p> <p>7 2009, Senator Huffman, was she in the Senate? Senator</p> <p>8 Harris. Generally, I mean, a lot of senators I --</p> <p>9 Q. (By Ms. Maranzano) Uh-huh. So is it fair to</p> <p>10 say that you spoke to senators who -- those senators who</p> <p>11 voted for and against SB 362?</p> <p>12 A. Yes, ma'am.</p> <p>13 Q. Did you speak to the Lieutenant Governor's</p> <p>14 Office about SB 362?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. How many times?</p> <p>17 A. I mean, I probably spoke to them every day as</p> <p>18 the bill was being scheduled for hearing and being</p> <p>19 heard, and then probably not at all until the House was</p> <p>20 done with it, and it was moving back over, and then</p> <p>21 again every day until we voted on it again.</p> <p>22 Q. Can you tell me, generally, what those</p> <p>23 conversations, the nature of those conversations?</p> <p>24 MR. FREDERICK: I'll object to the extent</p> <p>25 it asks you to reveal the substance or content of those</p>
<p style="text-align: center;">86</p> <p>1 of privilege. However, if you can answer without</p> <p>2 revealing privileged matters, you may do so.</p> <p>3 A. On the record, Senator Fraser said that he had</p> <p>4 looked at how Indiana was working.</p> <p>5 Q. (By Ms. Maranzano) Did you look at any</p> <p>6 information or study information from any interest</p> <p>7 groups in relation to SB 362?</p> <p>8 MR. FREDERICK: I'll make the same</p> <p>9 objection that this question calls for thoughts or</p> <p>10 mental impressions about pending legislation and your</p> <p>11 investigative process. I instruct you not to answer on</p> <p>12 the basis of privilege, except to the extent you can</p> <p>13 answer without revealing privileged matters, you may do</p> <p>14 so.</p> <p>15 A. I don't remember.</p> <p>16 Q. (By Ms. Maranzano) Did you have any</p> <p>17 communications about SB 362 with other legislators?</p> <p>18 A. Yes.</p> <p>19 Q. Which ones?</p> <p>20 MR. FREDERICK: I'll just issue a</p> <p>21 cautionary instruction. I don't think that this</p> <p>22 question is seeking the content of those communications,</p> <p>23 so I would instruct you not to reveal the content, but</p> <p>24 you may identify people with whom you spoke.</p> <p>25 A. Can we just on the record say that I was four</p>	<p style="text-align: center;">88</p> <p>1 conversations, which are subject to privilege. However,</p> <p>2 to the extent you're able to identify a general subject</p> <p>3 matter, you may answer.</p> <p>4 A. We generally spoke about the legislative</p> <p>5 process and we generally spoke about the bill itself.</p> <p>6 Q. (By Ms. Maranzano) The legislative process, do</p> <p>7 you mean how the bill would get passed?</p> <p>8 MR. FREDERICK: I'll object to the extent</p> <p>9 that seeks the content of privileged communications and</p> <p>10 instruct you not to answer.</p> <p>11 A. I'll assert privilege.</p> <p>12 Q. (By Ms. Maranzano) Were those conversations by</p> <p>13 phone or in person?</p> <p>14 A. I spoke to Lieutenant Governor's Office. I</p> <p>15 generally spoke to them in person.</p> <p>16 Q. Is there anybody from the Lieutenant Governor's</p> <p>17 Office who you spoke to who you haven't already</p> <p>18 testified about?</p> <p>19 A. In 2009?</p> <p>20 Q. Uh-huh.</p> <p>21 A. I would add Bryan Hebert to the list.</p> <p>22 Q. And who is Bryan Hebert?</p> <p>23 A. He was Lieutenant Governor's primary staff</p> <p>24 person for State Affairs in 2009.</p> <p>25 Q. Do you know when Bryan Hebert started working</p>

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<p style="text-align: center;">89</p> <p>1 for the Lieutenant Governor?</p> <p>2 A. No, ma'am.</p> <p>3 Q. He was not the Lieutenant Governor's staff</p> <p>4 person on voter ID issues in 2007?</p> <p>5 A. I don't remember. He might have been.</p> <p>6 Q. Was he the Lieutenant Governor's staff person</p> <p>7 on voter ID issues in 2011?</p> <p>8 A. Yes, ma'am.</p> <p>9 Q. Did you have communications with officials from</p> <p>10 other states about SB 362?</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. And who was that?</p> <p>13 A. When I was looking to get witnesses to testify,</p> <p>14 I spoke to somebody in Indiana. I don't recall who. I</p> <p>15 think from the Secretary of State's Office. And they</p> <p>16 were not able to come. And then I spoke with someone in</p> <p>17 Georgia. And I don't remember his name, although it's</p> <p>18 in the record, because he did come testify.</p> <p>19 Q. Did anyone ask you to contact these</p> <p>20 individuals?</p> <p>21 MR. FREDERICK: Object that the question</p> <p>22 asks you to reveal the substance of communications with</p> <p>23 legislators, staff or agencies or constituents. To the</p> <p>24 extent that you can answer without revealing those</p> <p>25 privileged conversations, you may do so.</p>	<p style="text-align: center;">91</p> <p>1 any groups representing minority voters?</p> <p>2 A. I don't remember.</p> <p>3 Q. Is there anything that would help you remember</p> <p>4 whether you had any communications about SB 362 with any</p> <p>5 interest groups?</p> <p>6 A. No.</p> <p>7 Q. Did you consider adding any additional forms of</p> <p>8 identification to SB 362?</p> <p>9 MR. FREDERICK: Object. That question</p> <p>10 seeks thoughts or mental impressions about pending</p> <p>11 legislation. I instruct you not to answer on the basis</p> <p>12 of legislative privilege.</p> <p>13 A. I'll assert privilege.</p> <p>14 Q. (By Ms. Maranzano) Can you look at Exhibit 29</p> <p>15 and Exhibit 28, I believe, HB 218 and SB 362, and look</p> <p>16 at forms of ID that are allowed in each bill.</p> <p>17 A. (Viewing documents.)</p> <p>18 Q. What was the purpose of excluding from 362 the</p> <p>19 student ID as a form of allowable identification even</p> <p>20 though it was allowed in HB 218?</p> <p>21 MR. FREDERICK: I object to the extent</p> <p>22 this question seeks your thoughts or mental impressions</p> <p>23 about pending legislation or thoughts of any other</p> <p>24 legislator, including Senator Fraser or their staff or</p> <p>25 to the extent it requires communications with</p>
<p style="text-align: center;">90</p> <p>1 A. Senator Fraser.</p> <p>2 Q. (By Ms. Maranzano) Why did you think, or why</p> <p>3 did the Senator think that individuals from Georgia or</p> <p>4 Indiana would be helpful in terms of the testimony about</p> <p>5 SB 362?</p> <p>6 MR. FREDERICK: I object, based that that</p> <p>7 seeks thoughts or mental impressions of Senator Fraser</p> <p>8 and communications between Senator Fraser and his</p> <p>9 staff. I instruct you not to answer on the basis of</p> <p>10 privilege.</p> <p>11 A. I'll assert privilege.</p> <p>12 Q. (By Ms. Maranzano) Do you remember either of</p> <p>13 these individuals' names who you talked to in Indiana</p> <p>14 and Georgia?</p> <p>15 A. No.</p> <p>16 Q. Did anyone from Indiana come and testify during</p> <p>17 the hearings on SB 362?</p> <p>18 A. No.</p> <p>19 Q. Did anyone from Georgia come testify?</p> <p>20 A. Yes, ma'am. He was very nice. I just can't</p> <p>21 remember his name.</p> <p>22 Q. Did you have communications about SB 362 with</p> <p>23 any interest groups?</p> <p>24 A. I don't remember.</p> <p>25 Q. Did you have communications about SB 362 with</p>	<p style="text-align: center;">92</p> <p>1 legislators, staff, agencies, TLC, and constituents, I</p> <p>2 instruct you not to answer on the basis of legislative</p> <p>3 privilege. To the extent you are able to identify the</p> <p>4 purpose of any part of the bill without relying on those</p> <p>5 privileged matters, you may do so.</p> <p>6 A. Again, this version of House Bill 218 is not</p> <p>7 the version that came to the Senate. I think that the</p> <p>8 student ID was pulled out by the House, not by the</p> <p>9 Senate.</p> <p>10 Q. (By Ms. Maranzano) I believe that the bill that</p> <p>11 I have introduced as evidence was actually the bill that</p> <p>12 was engrossed. Does that seem correct to you?</p> <p>13 A. It does not.</p> <p>14 Q. Okay.</p> <p>15 A. I'd have --</p> <p>16 Q. And you think that the student ID was pulled</p> <p>17 out of SB 362 in the House?</p> <p>18 MR. FREDERICK: I just object to the</p> <p>19 extent it mischaracterizes the testimony, but you can</p> <p>20 answer.</p> <p>21 Q. (By Ms. Maranzano) Okay. Can you describe to</p> <p>22 me what you --</p> <p>23 A. My understanding --</p> <p>24 Q. Uh-huh.</p> <p>25 A. My recollection, Senate Bill 362 should be the</p>